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The Influence of the Ordinary Citizen in the Legislative Process

Once every five years at the most, Austrian citizens over the age of 16 can vote in a parliamentary election (lower chamber, National Council).

In addition to this there are direct elections to the provincial legislatures of the nine federal states (mostly every five years¹), federal presidential elections (every six years) and European Parliament elections (every five years) as well as communal and mayor elections.

So what happens inbetween? Does the citizen sit back and leave the business of politics to the parliamentarians? During the legislative process per se the citizen is not directly involved. The work takes place mostly in parliamentary committees away from the cameras leaving the impression that even the plenary is a rather formal exercise involving ritualistic voting on the part of the members of parliaments in their respective parliamentary groups.

Austria is a **representative** (indirect) democracy.

The National Council is the parliamentary chamber directly elected by the people and representing them at national level. It is above all a representative organ of the

¹ In eight of the federal states provincial elections are held every five years but Upper Austria is the exception and the term there is six years.

population and on behalf of them has the job of lawmaking and parliamentary control (**indirect** democracy).

The question may be asked what is parliament representing---is it a mirror of society eg should there be a cross -section of the community in parliament composed of ethnic minorities, gender, age balance, professions and so on or are the members of parliament representing their voters. A Member of the National Council represents roughly 25,000 electors in a constituency and these will have diverse opinions.

Or are parliamentarians representing their own conscience and beliefs especially possible in ethical and religious questions. Or maybe the members of parliament just represent the interests of the parties (Klubs) that are essential for their reelection.

People are often disaffected with politics and complain that they have no influence and that during plenary sessions of parliament, everything is anyway already decided and even the average backbencher has no influence.

So what can the ordinary citizen do inbetween elections?

In Austria there are elements of **direct democracy** allowed for in the federal constitution and in the parliamentary rules of procedure.

The most important of these are:

The Popular Initiative

Every motion signed by at least 100,000 voters or by one sixth each of the voters in three federal states (Popular Initiative) shall be submitted by the Federal Electoral Board to the National Council for legislative action (Art. 41 (2) Federal Constitution).

The competent committee of the National Council has to start preliminary consultations within a month after referral to committee. After another four months a report must be made to the National Council (§ 24 (2) of the Rules of Procedure).

According to § 24 (1) of the Rules of Procedure, popular initiatives shall be given priority over all other matters when the agenda of the National Council plenary is drawn up.

The Federal Constitution further stipulates that a Popular Initiative – like a Citizens’ Initiative – is not lost at the end of the legislative period but is carried over as business for the consecutive parliament. This ensures an ongoing examination of the Popular Initiative (Article 28 (4) Federal Constitution and § 21 (1a) Rules of Procedure NR) in both legislative periods.

The Citizens’ Initiative

The initiative must be supported by at least 500 Austrian citizens who have completed their sixteenth year. Such initiatives go to the National Council Committee for Petitions and Citizens’ Initiatives and to the plenary of the National Council in accordance with § 100 (1) of the Rules of Procedure. As mentioned above, the initiative will be deliberated, should the legislative period end, in the consecutive parliament (Article 28 (4) Federal Constitution and § 21 (1a) Rules of Procedure).

Referenda

A referendum can be held on any enactment after the completion of the legislative process in the National Council, if so ordered by the chamber or if a majority of its members demand it in accordance with Article 43 of the Federal Constitution.

In addition a referendum is mandatory when there is a comprehensive revision of the Federal Constitution involved before authentication by the Federal President (such as was the case before Austria’s accession to the European Union in 1994). A partial change to the constitution only requires a referendum if called for by a third of the

members of the National Council or of the Federal Council (Article 44 (3) Federal Constitution).

Furthermore a referendum is to be held in the event of a premature removal from office of the Federal President (Article 60 (5) Federal Constitution). Such a step is within the remit of the Federal Assembly (both chambers meeting together) but needs a motion and decision of the National Council taken with a qualified majority in accordance with Article 60 (6) of the Federal Constitution. One of the most famous instances of a referendum in Austria was in 1978 when the population narrowly voted against putting a nuclear power station near Vienna on stream. Until this day there are no nuclear power stations in Austria.

Public Consultation

This is a rather weak instrument of direct democracy and can be held on a matter of nationwide fundamental importance subject to federal legislation as laid down in the Austrian Constitution (Article 49b). Members of the National Council or the Federal Government can put a motion which has to be passed by the chamber. Citizens can then vote but the outcome is not binding.

Petitions

Parliamentary petitions submitted in writing to the National Council that are within the jurisdiction of the legislative or executive branches at federal level may be deliberated in accordance with the provisions of § 100 of the Rules of Procedure. The petition must be filed by a member of the National Council. Petitions, unlike citizens' initiatives, do not require a minimum number of signatories. At the end of a legislative period a petition is "lost" and, unlike a citizens' initiative, cannot be carried

over to the next parliament. Usually petitions are deliberated in the Committee for Petitions and Citizens' Initiatives.

The Federal Council can also deal with petitions but according to the rules of procedure they are referred to the relevant committee. Six months after referral, if the committee has failed to make a report, the petition is forwarded to the competent member of the federal government for appropriate attention (§ 25 of the Rules of Procedure of the Federal Council).

So there is a mix between the elements of representative indirect and direct democracy in the Austrian system.

Also during the legislative process details (expert opinions, government bills, committee reports, agenda of plenaries etc) are posted on the homepage of the Austrian parliament (www.parliament.at) so there is more transparency and information available to the average citizen than before.

Some plenary sessions of parliament are partially broadcast live on national television. These days thanks to "livestreaming" it is possible to watch the proceedings in plenary live via Internet. Citizens also can contact their member of parliament or the groups with questions and suggestions. This is only really effective if it is concerned with concrete issues and has some link with the overall position of the group. In the end every bill must get majority support in the National Council and the Federal Council but in the process the citizen has a chance to make his or her voice heard.