



# Constitutional Amendments

31 October – 01 November 2020

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## Amendment Number 1

### Clause 1.2

#### **Section of Constitution:** Party Values

**Proposed by:** Traverse le Goff  
**Seconded by:** Malcolm de Klerk

#### **Proposed Amendment:**

1.2 We stand together with all South Africans who share a community of values embodied by these words: Freedom, Fairness, Opportunity, Diversity, **Stewardship and Sustainability.**

#### **Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** Values are deeply held, fundamental issues that should not be changed or altered without significant consideration, consultation and debate. They also need to be detailed and unpacked so that there is no confusion. The committee believes that this would be better suited to a policy debate, rather than a constitutional amendment at this time.

## Amendment Number 2

Clause 1.3.11

**Section of Constitution:** Party Principles

**Proposed by:** John Steenhuisen

**Seconded by:** Jane Sithole

**Proposed Amendment:**

1.3 the clear division between the **governing** party and the state;

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amends the word "ruling", replacing it with "governing". South Africa is a democracy, and the party in power governs, it does not rule.

## Amendment Number 3

Clause 1.3.15

**Section of Constitution:** Party Principles

**Proposed by:** John Steenhuisen

**Seconded by:** Jane Sithole

**Proposed Amendment:**

1.3.15 the progressive realisation of access to quality education, housing, health services and social security for all people who are unable to help themselves;

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** 1.3.18 already promotes access to education. The South African Constitutional Court has upheld that there is not a progressive realization of access to basic education – it is an immediately realizable right of all citizens.



## **Amendment Number 4**

Clause 1.3.19

**Section of Constitution:** Party Principles

**Proposed by:** John Steenhuisen

**Seconded by:** Jane Sithole

**Proposed Amendment:**

**1.3.19 a corruption-free, transparent and accountable government.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This is fundamental to the DA's vision for South Africa.



## Amendment Number 5

### Clause 1.4.4

**Section of Constitution:** Programme of Action

**Proposed by:** Traverse le Goff

**Seconded by:** Malcolm de Klerk

#### **Proposed Amendment:**

**1.4.4 The Party must use all available instruments of political power both when in government and when in opposition to ensure that South Africa transitions rapidly to a zero-carbon economy by 2035, or as close as possible to that timescale, and that it meets and exceeds its "fair share" of emissions in order to limit global warming to no more than 1.5°C above pre-industrial levels.**

**1.4.5 The Party must adhere to an approach when in government and when in opposition which ensures the highest possible level of environmentally sustainable practice is invoked, that it eliminates single-use plastics, maximally deploys widespread urban greening, and that every opportunity to invest in conserving, rewilding, and augmenting the natural environment and protecting biodiversity are taken both in policy and practice.**

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** This amendment is incredibly specific and detailed. While it may be desirable as a party position, it is not suitably constructed to be a constitutional amendment. It should rather be considered as a policy framework, and embodied in DA policy planning.

## Amendment Number 5a (ALTERNATIVE FORMULATION)

Clause 1.3.16

**Section of Constitution:** Party Principles

**Proposed by:** Clive Napier

**Proposed Amendment:**

1.3.16 the preservation and conservation of the environment, **the establishment of and commitment to nett zero carbon emission targets, a commitment to international accords on climate change and the pursuit of the highest levels of environmental sustainability;**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This alternative formulation to the original Amendment 5 seeks to place it in the correct place (i.e. Party Principles), and streamlines it to make it more suitable for a constitutional provision, without taking away from the original intent of Amendment 5.

## Amendment Number 6

Clause 2.3.2.3

**Section of Constitution:** Early/distance voting rules

**Proposed by:** Jarred Nair

**Seconded by:** Tim Brauteseth

### **Proposed Amendment:**

2.3.2.3 The Federal Council must prescribe procedures for early and/or distance voting **for any meeting where voting is to take place and where early/distance voting has been approved by the Federal Executive.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment seeks to acknowledge the reality of the post-COVID world – that more meetings are virtual, and require a different set of rules and procedures to ensure they comply with this Constitution and any other provisions the Party may require. The reason for changing "may" to "must" is to ensure that there aren't any gaps in the event that early voting is allowed for and no procedures have been put in place.

## Amendment Number 7

### Clause 2.3.3

**Section of Constitution:** Voting system for elected positions

**Proposed by:** Bheka Ntuli

**Seconded by:** Nomfundo Khubone

#### **Proposed Amendment:**

2.3.3 All elections to office within the Party involving the election of more than two people to an office must be by **a voting system** approved by the Federal Council, provided that where this is practically impossible, permission may be granted by the Regional Executive when it relates to branches, Provincial Executive when it relates to constituencies and Regions, and Federal Executive or the chairperson of Federal Council when it relates to Provinces to deviate from this on good cause shown. Internal elections will be conducted in terms of standards set by the Federal Council.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This would allow the Federal Council more flexibility in determining the type of voting system to be utilized by the Party in its election procedures.

## Amendment Number 8

### Clause 2.5.4.1

**Section of Constitution:** Standards of Conduct for Party Members

**Proposed by:** Jarred Nair

**Seconded by:** Tim Brauteseth

#### **Proposed Amendment:**

2.5.4.1 publicly opposes the Party's **Values and** Principles or repeatedly opposes published Party policies, except in or through the appropriate Party structures.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** Opposing the Party's Values is detrimental to the electoral prospects of the Party and creates confusion among voters when they see different messages coming from different members.

## Amendment Number 9

Clause 2.5.4.16

**Section of Constitution:** Standards of Conduct for Party Membes

**Proposed by:** Tim Brauteseth

**Seconded by:** Melanie Brauteseth

**Proposed Amendment:**

**2.5.4.16 posts or approves of any media content on any platform that is of an insulting nature, is derogatory or insensitive, constitutes hate speech, contains offensive language, causes unnecessary offence or harms the Party's brand and its electoral prospects.**

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** This amendment is exceptionally broad, subjective, and infringes on the constitutional right of freedom of speech. Our Digital Media Policy and the other provisions for misconduct in 2.5.4 make adequate provision for these issues to be addressed. Freedom of speech should only be curtailed in the event of hate speech, as defined in the Constitution. Some people are easily offended and there could be a plethora of charges as soon as someone is unhappy, with the concomitant inhibition of the expression of different views.

## Amendment Number 10

### Clause 3.1.1.1

**Section of Constitution:** Criteria for Youth Membership

**Proposed by:** Topollo Mokhati

**Seconded by:** Emile Langenhoven

### **Proposed Amendment:**

3.1.1.1 Be 16 years of age or older, provided that all members between the ages of 16 and **35**, will automatically be members of the Democratic Alliance Youth.

### **Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** The DA has rejected this proposal at every Congress for the past 10 years. A person aged 35 is often married, working, with children, and does not fit the profile of "youth". The problems, needs and challenges experienced by a 16-year-old and 35-year-old are very different. It should be noted that there is no provision in the South African Constitution determining the upper age limit for youth – this is something we must decide for ourselves in the DA.



## Amendment Number 11

### Clause 3.1.1.1

**Section of Constitution:** Criteria for Youth Membership

**Proposed by:** Topollo Mokhati

**Seconded by:** Emile Langenhoven

### **Proposed Amendment:**

3.1.1.1 Be 16 years of age or older, provided that all members between the ages of 16 and 31, **may opt-in** to become members of the Democratic Alliance Youth.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** No-one should be a member of something they have not signed up for. This is the basic tenet of freedom of association (and disassociation). Accordingly, we should not require our younger members to automatically belong to the DA Youth.

## Amendment Number 12

Clause 3.1.1.8

**Section of Constitution:** Criteria for Membership

**Proposed by:** Topollo Mokhati

**Seconded by:** Emile Langenhoven

**Proposed Amendment:**

**3.1.1.8 Not have undergone a disciplinary process that resulted in the termination or cessation of their membership of the Party before the expiry of a period of two (2) years.**

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** This is addressed in 3.2.2.

## Amendment Number 13

### Clause 3.2.2

**Section of Constitution:** Refusal of Membership

**Proposed by:** Ashor Sarupen

**Seconded by:** Bobby Stephenson

#### **Proposed Amendment:**

**3.2.2** An individual whose membership has ended is perpetually inadmissible for membership if such membership ended under the following circumstances and no person may be readmitted for membership nor be eligible for nomination as a public representative under the following circumstances, without the express approval of the Federal Executive after consultation with the relevant Provincial Executive:

**3.2.2.1** An individual whose membership has ceased in terms of 3.5 of this Constitution, save that this does not apply to members whose membership has expired in terms of 3.5.1.1;

**3.2.2.2** An individual whose membership was terminated in terms of 10.12 of this Constitution;

**3.2.2.3** An individual who voluntarily resigned from the Party to join or support another party;

**3.2.2.4** An individual who, being charged with misconduct in terms of this Constitution, resigns prior to the completion of the necessary disciplinary processes and appeals as defined in this Constitution;

**3.2.3** Any individual who is perpetually inadmissible for membership in terms of clause 3.2.2 is deemed to not be a valid member even where such person submits a valid membership application form to the party or applies for membership online, the submission of which does not constitute readmission of membership;

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment clarifies the exclusion of members whose membership has ceased (except for those whose membership has expired) or been terminated, as well as those who resign to join, campaign for or support another political party, or who resign during Party disciplinary processes. It further notes (3.2.3) that even when a person manages to apply, this does not mean that they have legitimately rejoined and become a member.

## Amendment Number 14

Clause 3.4

**Section of Constitution:** Dual Membership

**Proposed by:** Topollo Mokhati

**Seconded by:** Emile Langenhoven

### **Proposed Amendment:**

3.4 A member or category of members of the Party may also be a member or members of another party or parties approved by the Federal Council **until the next membership audit** and on conditions determined by the Federal Council.

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** The purpose of the original clause was to permit dual membership where the Party was amalgamating with another. Since this typically takes a longer timeframe than the membership audit cycle, it is necessary to allow a certain amount of flexibility in the process. This is accomplished in the original clause through the statement "for the period and on conditions determined by Federal Council". The time limit of "until the next membership audit" does not permit such flexibility.

## Amendment Number 15

### Clause 3.7.1

**Section of Constitution:** Establishment of Branches

**Proposed by:** John Steenhuisen

**Seconded by:** Jane Sithole

### **Proposed Amendment:**

3.7.1 The **essential** organisational units of the Party are the branches. The Party will strive to establish and maintain a branch or branches for every local government ward in South Africa, **composed of the key stakeholders of the Party, namely its members. Members play an important role in decision and policy making and the implementation of the Party's Programme of Action.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment acknowledges the importance of branches and recognizes the primacy of members. It further clarifies the role of members in branches.

## Amendment Number 16

### Clause 3.7.2

**Section of Constitution:** Purpose of Branches

**Proposed by:** John Steenhuisen

**Seconded by:** Jane Sithole

### **Proposed Amendment:**

3.7.2 Branches are established to manage and direct the affairs of the Party, to communicate the principles and policy of the Party to the public, **to recruit activists and volunteers for the Party**, to mobilise the public in support of the programme of action of the Party, to participate in the process of democratic selection of candidates for the Party and to serve as the vehicle for the articulation of the interests of members of the Party and voters in their areas of jurisdiction.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment recognizes the need for branches to recruit people to build the Party on the ground, and to identify people who are willing and able to campaign for elections, man voting stations and assist in the many programmes of the Party.

## Amendment Number 17

Clause 3.8.3

**Section of Constitution:** Membership of Branches

**Proposed by:** Benedicta van Minnen

**Seconded by:** Rose Rau

**Proposed Amendment:**

**3.8.3 A member of the Party can only be a member of one branch, and may be a delegate or office bearer of only that branch.** Public representatives may attend and speak at all branches in the area of jurisdiction which they represent, or which has been allocated to them, but they are entitled to vote only in the branch of which they are a member.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** There have been instances where a member of Branch A is elected as an office bearer or delegate for Branch B. This amendment seeks to prohibit this behaviour.



## Amendment Number 18

Clause 4.1

**Section of Constitution:** Demarcation of Constituencies

**Proposed by:** Topollo Mokhati

**Seconded by:** Emile Langenhoven

### **Proposed Amendment:**

4.1.1. A Provincial Executive must, in consultation with the Chief Executive Officer of the Party and after due consultation with the **relevant Constituency and** Regional Executives where these exist demarcate constituency boundaries.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** We are a party of federalism, and inclusivity. This amendment seeks broader consultation to ensure the best possible determination of constituency structures.

## Amendment Number 19

Clause 4.1.5

**Section of Constitution:** Failure by Constituency Executive Members

**Proposed by:** Tim Brauteseth

**Seconded by:** Hlengiwe Shoji

**Proposed Amendment:**

**4.1.6 A member of a constituency executive who fails to attend 3 consecutive meetings, without good reason, may be removed from their position on that executive by a majority decision of the executive, after giving such member the opportunity to motivate why he/she should not be removed. The member may appeal such decision to the relevant provincial executive, whose decision will be final.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** Where individuals are not participating in constituency executive meetings and deliberations, this amendment allows for a removal and appeal process.

## Amendment Number 20

Clause 6.1.4

**Section of Constitution:** Election of Federal Leadership

**Proposed by:** Jarred Nair

**Seconded by:** Priscilla Munsamy

### **Proposed Amendment:**

6.1.4 The Federal Congress elects the Federal Leader, the Federal Chairperson and the Deputy Federal Chairpersons, **the Chairperson of Federal Council, the two Deputy Chairpersons of Federal Council and the Federal Chairperson of Finance.**

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** It is global best practice, both in government and the private sector, that committees elect their own leadership. Furthermore, the positions proposed for inclusion here are very much operational and administrative in nature, requiring specialized skill sets. While it may seem unlikely, a popular candidate with no financial skills could through this process be elected as Federal Chairperson of Finance for example. Federal Council, as a representative body, with the requisite specialist knowledge, of all the Provinces and structures of the Party, is an appropriately democratic structure to elect these positions.

## Amendment Number 21

Clause 6.1.4

**Section of Constitution:** Election of Deputy Leader

**Proposed by:** Mbali Ntuli

**Seconded by:** Sakhile Mngadi

### **Proposed Amendment:**

6.1.4 The Federal Congress elects the Federal Leader, **the Deputy Federal Leader**, the Federal Chairperson and the Deputy Federal Chairpersons.

### **Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** This amendment would create a Deputy Federal Leader, and with it, the not unreasonable assumption that such a person would succeed the Federal Leader. This stifles democracy. Additionally, it can create a further "centre of power", thereby promoting factionalism or creating an environment where there is a competition for prominence, at the expense of the Party as a whole.

The purported reason for this amendment – to ensure a smooth transition of power in the event of a vacancy in the position of Federal Leader – is adequately dealt with in 7.2.2 and 7.7.1.

## Amendment Number 22

Clause 6.1.8

**Section of Constitution:** Voting at Congresses

**Proposed by:** Chris Dalton

**Seconded by:** Sidney Pittaway

**Proposed Amendment:**

**6.1.8 The Federal Council shall develop rules and procedures that delegates to all congresses consult, prior to such congress, with members who they will represent at that congress regarding any decisions to be taken at that congress.**

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** This amendment would take away the basic principle of liberal democracy, namely individual agency. It is assumed that structures will elect delegates who broadly represent their views, trusting their intelligence and political acumen to make decisions that are in the best interests of the Party. Delegates should be able to listen to the various arguments at meetings and adapt their views accordingly.

It would also be virtually impossible to conduct any sort of vote, as every delegate's mandate would need to be verified before a result could be announced.

## Amendment Number 23

Clause 6.2.3.9

**Section of Constitution:** Representation on Federal Council

**Proposed by:** Leander Kruger

**Seconded by:** Marina van Zyl

### **Proposed Amendment:**

6.2.3.9 twenty four (24) local government councillors representing the Party, allocated to the provinces proportionately on the basis of the votes cast at the most recent election of a national nature and elected by the provincial **or regional organisation**, where they exist, of the Association of Democratic Alliance Councillors by a proportional voting system approved by the Federal Council, but subject to the condition that each province shall obtain at least one representative under this section.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment allows voting for ADAC delegates to Federal Council to be devolved down to regional level, where regions exist.

## Amendment Number 24

Clause 6.2.4

**Section of Constitution:** Consequential Amendment

**Proposed by:** Jarred Nair

**Seconded by:** Priscilla Munsamy

**Proposed Amendment:**

Deletion that arises if **Amendment 21** is passed.

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** If amendment 21 is passed, this amendment becomes vital. If it is not passed, it must fall away.



## Amendment Number 25

### Clause 6.2.4.1

**Section of Constitution:** Election of Federal Council Leadership

**Proposed by:** Thomas Walters

**Seconded by:** Natasha Mazzone

### **Proposed Amendment:**

6.2.4.1 Members of the Federal Council must, during the next Federal Council, elect its Chairperson, **three** Deputy Chairpersons and a Federal Chairperson of Finance.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This acknowledges the increased workload of the Deputy Chairpersons of Federal Council. An additional Deputy Chairperson would allow such workload to be spread about more widely.

## Amendment Number 26

Clause 6.3.1

**Section of Constitution:** Representation on Fedex

**Proposed by:** Ashor Sarupen

**Seconded by:** Matt Cuthbert

**Proposed Amendment:**

**6.3.1.10 The Leader, or their nominee, of each Ancillary Body approved by the Federal Council in terms of Chapter 11 of the Federal Constitution.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment cleans up 6.3.1.10 through 6.3.1.14 into a single clause, which acknowledges that any properly constituted and approved Ancillary Body would be represented on the Federal Executive.

## Amendment Number 27

Clause 6.4

**Section of Constitution:** Amends the composition of the NMC

**Proposed by:** Mbali Ntuli

**Seconded by:** Hlanganani Gumbi

**Proposed Amendment:**

remove all references to Chief Whip of the National Assembly

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** The Chief Whip plays an integral role in implementing and coordinating the political activities of the Party on a national level. This person also sits on the Programming Committee of Parliament, which deals with upcoming legislative processes, debates and issues, and is therefore a vital link between the national caucus and the national management committee, to keep the latter informed and prepared for any broader Party mobilization that may be required.

## Amendment Number 28

### Clause 6.5

**Section of Constitution:** Establishes a Governance Committee

**Proposed by:** Bheka Ntuli

**Seconded by:** Sithembiso Ngema

### Proposed Amendment:

#### 6.5 GOVERNANCE COMMITTEE

**6.5.1** A Governance Committee, reporting to the Federal Council, must be established in order to oversee, advise and consult with DA governments in the provincial and local spheres.

**6.5.2** The Federal Council must elect the Chair of Governance and two (2) Deputy Chairs of the Governance Committee, which will include the mayors of all DA governed municipalities and the premiers of all DA governed provinces.

#### **6.5.3** Functions of Governance Committee

**6.5.3.1.** The Governance Committee, in consultation with the respective province or municipality, sets and monitors performance targets for each DA governed province and municipality, subject to the proviso that such targets must be approved by the Federal Council;

**6.5.3.2** The Governance Committee must consult with the mayors of DA governed municipalities, premiers of DA governed provinces and the President (if the DA is in government nationally) respectively, to ensure that the approved Party manifestos, Programme of Action and policies are implemented where we govern.

**6.5.3.3** Before initiating any court action, mayors of DA governed municipalities must consult with the Governance Committee and comply with any other requirement of this Constitution.

**6.5.3.4** The Governance Committee must, after consultation with the relevant mayors of DA governed municipalities, the Premiers of DA governed provinces and/or the President (if the DA is in government nationally), advise the Federal Executive on the composition of the respective Mayoral Committees and/or Executive Councils, Provincial Cabinet/s and National Cabinet, and all other executive government offices, and in the case of councillors, full-time positions.

**6.5.3.5** The Governance Committee shall advise the Federal Executive on the formation of any coalition government the Party is to enter into.

**Constitutional Review Committee recommends: DO NOT SUPPORT**

**Committee's reason for recommendation:** While this amendment purports to promote the separation of Party and State, in fact it does the exact opposite. Monitoring and support of DA governments is done through the Governance Unit at FHO, and the Federal Executive, after consultation with relevant provincial structures already decides on the composition of mayoral committees and executive councils, and the formation of coalition governments.

## Amendment Number 29

### Clause 7.6.4

**Section of Constitution:** Excludes Provincial Leaders from Selection Panels

**Proposed by:** Geordin Hill Lewis

**Seconded by:** Leon Schreiber

### Proposed Amendment:

7.6.4 Provincial Leaders shall be members of all Electoral Colleges in their own province. **They shall not be members, nor shall they attend or observe meetings of Selection Panels in any capacity. They will be entitled to address Selection Panel members only once during the selection process, and may not do so in the presence of candidates.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** Provincial Leaders are already members of Electoral Colleges. Additionally, they serve on the Provincial and Federal Executive, and are able to influence the amendment of candidate lists on these bodies. This amendment seeks to limit their involvement and influence during the initial drafting of the lists by the Selection Panels.

## Amendment Number 30

Clause 7.8

**Section of Constitution:** Term Limits for Senior Office Bearers

**Proposed by:** Thomas Walters

**Seconded by:** Natasha Mazzone

**Proposed Amendment:**

**7.8 Senior Office Bearers (as defined in 13.5) will be limited to serving no more than two consecutive full terms in the same position.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment implements one of the recommendations of the Review Report. It seeks to ensure a regular organizational renewal, and the development of upcoming leaders. It also seeks to ensure that power cliques or cabals do not form around individuals and/or positions.

## Amendment Number 31

Clause 10.1.2

**Section of Constitution:** Who may be an FLC member

**Proposed by:** Stuart Pringle

**Seconded by:** Nico Buckle

**Proposed Amendment:**

**10.1.2 A member of the Federal Legal Commission shall not be a member of any other political party, and shall be a member of the Party, except if they are required by virtue of their profession to remain independent, and their expertise is needed.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment acknowledges that, from time to time, experts are brought on to the FLC to assist with particular matters. In some cases (e.g. judges or advocates) their profession requires they remain politically neutral. This would permit them to assist, even though they are not members of the Party.



## Amendment Number 32

Clause 10.1.3

**Section of Constitution:** Who may chair an FLC panel

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

### **Proposed Amendment:**

10.1.3 The Federal Legal Commission must develop rules for the selection of panels to hear matters. The Chairperson of the panel must **have a qualification in law** and all members of the panel must be fit and proper persons.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment clarifies the criteria for serving as an FLC panel chairperson.

## Amendment Number 33

Clause 10.1.5

**Section of Constitution:** Filling of FLC vacancies

**Proposed by:** Jarred Nair

**Seconded by:** Tim Brauteseth

**Proposed Amendment:**

**10.1.6 The Federal Council may fill any casual vacancy in the Federal Legal Commission between Federal Congresses, by following the process described in 10.1.1.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** Currently there is no provision for the FLC to fill any vacancies that might arise. This amendment allows the Federal Council to fill the vacancy by following the process in 10.1.1.

## Amendment Number 34

Clause 10.2.2

**Section of Constitution:** FLC processes

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

### **Proposed Amendment:**

10.2.2 **Whenever** any matter is referred to it by the Federal Leader, or the Federal Executive, the Federal Legal Commission shall **deal with it according to its Rules of Procedure, provided that in the absence of the Rules of Procedure determining a specific process applicable to the matter, it will follow a process in terms of which it shall:**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment clarifies the processes to be followed by the FLC in dealing with any matter referred to it. It provides for a default process where there are no specific Rules for dealing with a matter.

## Amendment Number 35

Clause 10.3.2

**Section of Constitution:** Establishment of PDCs

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

### **Proposed Amendment:**

10.3.2 Except where the Federal Council allows otherwise, every Disciplinary Committee must consist of not more than ten (10) members and ten (10) alternates; more than half the number **of members** must **have qualifications in law**.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment aligns with Amendment 33, and clarifies the criteria for members of Provincial Disciplinary Committees.

## Amendment Number 36

Clause 10.3.3

**Section of Constitution:** Composition of PDC panels

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

**Proposed Amendment:**

**10.3.3. The composition of panels of the Provincial Disciplinary Committee must comply with the Rules of the Federal Legal Commission.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This aligns the composition of PDC panels with those of FLC panels.

## Amendment Number 37

Clause 10.6.3

**Section of Constitution:** Training of Mediators

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

### **Proposed Amendment:**

10.6.3 Only members of the Federal Legal Commission who have **undergone suitable training** may be involved in mediation procedures.

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** Accredited training is expensive. The Party is often able to utilize in-house resources to conduct such training, without awarding accreditation, at much lower costs.

## Amendment Number 38

Clause 10.10.7

**Section of Constitution:** Appeals to the FLC

**Proposed by:** Benedicta van Minnen

**Seconded by:** Gregory Peck

### **Proposed Amendment:**

10.10.7 Any appeal provided for in this section must be lodged with the Chairperson of the Federal Legal Commission within a period of ten (10) working days after the relevant executive has informed the parties of the decision (**or less if the Candidate Selection Regulations so provide**) ...

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment acknowledges that in the election cycle timeframes are often significantly foreshortened, and thus allows for the Candidate Selection Regulations to reduce the period for lodging an appeal in order to meet the appropriate election deadlines (e.g. for the submission of candidate lists to the IEC).

## Amendment Number 39

Clause 10.11.1.2

**Section of Constitution:** Changing of penalty by the Executive

**Proposed by:** Tim Brauteseth

**Seconded by:** Greg Krumbock

### **Proposed Amendment:**

10.11.1.2 must consider the recommendation of the committee regarding the penalty, if any, and may either confirm it, or impose a lesser or greater penalty than that recommended by the Panel, **provided that such variation of penalty is supported by no less than two thirds of the relevant executive and with good reason shown.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** FLC or PDC sanctions can currently be changed by a simple majority vote of the relevant executive. This amendment requires a super majority vote, thereby ensuring that due weight is given by the relevant executive to the considered deliberations of the FLC or PDC panel.



## Amendment Number 40

Clause 13.5

**Section of Constitution:** Definitions

**Proposed by:** Thomas Walters

**Seconded by:** Natasha Mazzone

**Proposed Amendment:**

**"Senior Office Bearers" means, in respect of federal structures, the Federal Leader, Federal Chairperson, the Chairperson of Federal Council, and the Federal Chairperson of each Ancillary Organization. In respect of provincial and regional structures, the definition means the Provincial Leaders, Provincial Chairpersons, Provincial Deputy Leaders, and Regional Chairpersons.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment provides a definition for Senior Office Bearers in 7.8 to whom term limits apply. This does not preclude other leaders who occupy specialist offices from serving for more than two terms and focusses on leaders who wield extraordinary power through their political office.

## Amendment Number 41

Clause 13.5

**Section of Constitution:** Definitions

**Proposed by:** Thomas Walters

**Seconded by:** Natasha Mazzone

**Proposed Amendment:**

**"Term" means the period from one ordinary elective Congress (whether Federal, Provincial or Regional) until the next ordinary elective Congress of the same structure.**

**Constitutional Review Committee recommends: SUPPORT**

**Committee's reason for recommendation:** This amendment defines what is meant by a term in 7.8.

## **Amendment Number 42**

**Congress agrees that any consequential amendments arising from amendments made during Congress may be effected by the Constitutional Review Committee (including the correction of cross references and numbering as may be necessary).**