

Lawmaking in Germany

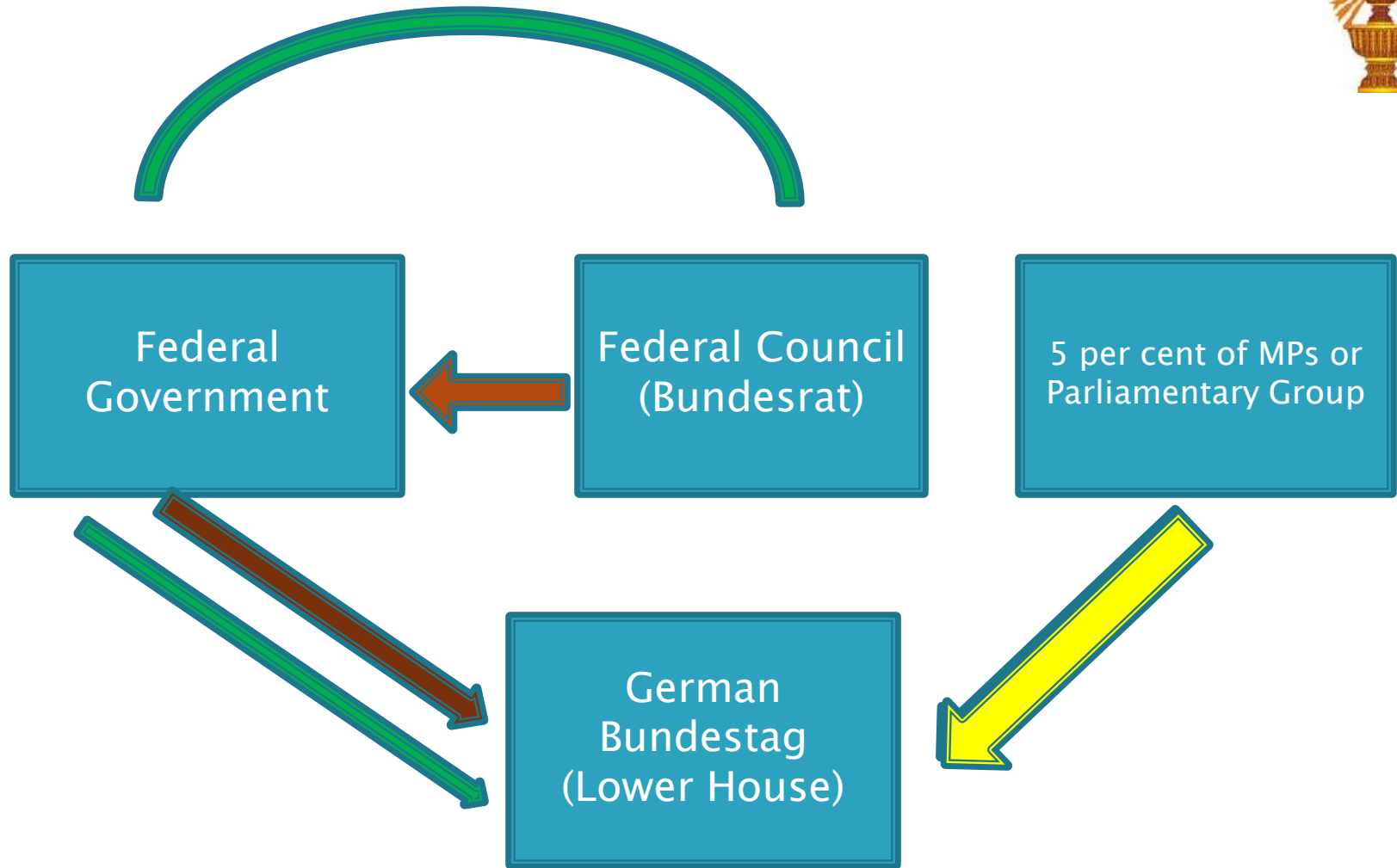
– Procedure of the Bundestag –

**Consultative Workshop on “Law Review and
Law Initiative by the Cambodian Parliament”**

**22/06/2015
Phnom Penh**

**Presented by: Norbert Feige
Legal and Parliamentary Adviser
National Assembly of the
Kingdom of Cambodia**

How Draft Laws come to Parliament – 1



How Draft Laws come to Parliament – 2



1. Draft Laws from the Federal Government are submitted to the Federal Council

Period for Submitting Statements by the Federal Council

a) Normal Procedure: 6 Weeks

On Demand of Extension: 9 Weeks

b) **Exception**: Government declares Urgency 3 weeks

On Demand of Extension: 6 Weeks

c) Constitutional Amendments: 9 Weeks

The Draft Laws are sent back to the Government and then submitted to the Bundestag (lower house)

How Draft Laws come to Parliament – 3



2. Draft Laws prepared by the Federal Council (upper house) are sent to the Bundestag (lower house) via the Federal Government

Period for Submitting Statements by the Government

a) Normal Procedure: 6 Weeks

On Demand of Extension: 9 Weeks

b) **Exception:** Federal Council declares Urgency >3 weeks

On Demand of Extension: 6 Weeks

c) Constitutional Amendments: 9 Weeks

3. Draft Laws from MPs or Parliamentary Groups are submitted directly to the Bundestag (lower house)

First Reading



- Draft Law is forwarded to all Members of Parliament
- First Reading: not earlier than three Days after distributing the Draft Law among MPs
- General debate only on demand of a Parliamentary Group or five per cent of all Members of Parliament
- Determination of the responsible Commission
- Exception: A majority of two Thirds of present MPs can decide to go directly to the second Reading (without sending the Draft to a Commission), this is an extremely rare practice

The Commissions – 1



- Currently 23 Commissions with 14 to 46 members
- All commissions are composed according to the Principle of Proportion
- Detailed Consultation of the Draft Law
- Working Groups: “Parliamentary Groups” within a Commission

The Commissions - 2



- Public Hearings: Consultation with Experts and Stakeholders, Conducted for all important and/or controversial Draft Laws
(more than 300 Public Hearings annually)
- The Commission prepares a Resolution Recommendation and Report
- **No Timeline for the Work of the Commission**
- Enquete Commission: Special Commission on a Topic of fundamental Importance (not for a certain Draft Law) consisting of MPs and external Experts

Second Reading



- Report of the Commission is forwarded to all Members of Parliament
- Second Reading: not earlier than two Days after distributing the Commission's Report among MPs
- General Debate: on Recommendation of the Council of Elders or on Application of a Parliamentary Group or five per cent of Members
- Every MP can apply for any Amendment
- Debate and Voting on each Section
- All Amendments that were agreed are summarized for the Third Reading

Third Reading



- If Amendments are not adopted: directly after the second Reading
 - Otherwise: Not earlier than two Days after distributing the Document on adopted Amendments
 - Amendments may now only be requested by a Parliamentary Group or five percent of MPs
 - Final Voting: Single Majority of the Votes
- > In Practice, nearly every Draft Law is amended during the Process

Further Procedure



- The Law is forwarded to the Federal Council (Bundesrat)
- If the Law is accepted by the Federal Council (= consent or decision not to file an objection) the Law is forwarded to the Federal President for Signing and Promulgation

Legal Protection



- Laws can be referred to the German Federal Constitutional Court for Review
- Applicants: Federal Government, Federal State Government, One Quarter of Members of the Bundestag, Courts, In some cases: Individuals
- Infringements of Regulations regarding the Law Enactment Procedure might lead to the Unconstitutionality of the Law

General Principles – 1



1. Duration of the Law Enactment Procedure

- The Process is relatively time-consuming
- Urgent Draft Laws are the Exception

2. Minority Rights are respected and protected to a high Extent

General Principles – 2



3. Transparency and Participation

- Some Ministries in Federal States establish Online Fora on Draft Laws
- Public hearings
- (Most) Draft Laws are no State Secrets
- Public Discussion of Draft Laws in the Media

- Objection: Improving Quality of Laws and enhancing their Acceptance

Do you have any Questions ?

