

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

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MEMORANDUM

TO: Chairpersons: Joint Constitutional Review Committee
[Dr E A Schoeman, MP; Mr S Shiceka, MP]

COPY: Secretary to Parliament

FROM: Legal Services Office

DATE: 19 June 2006

SUBJECT: **Further research in regard to comparative provisions
for Leader of the Opposition**

1. I was asked to develop the memorandum to the Joint Constitutional Review Committee dated 14 March 2006 in respect of countries that:
 - are outside the Commonwealth;
 - have proportional representation election systems; and
 - have multi-party systems as opposed to two party systems in practice.

2. Pursuant to the above, I consulted the relevant provisions of the constitutions of the following countries:
 - Austria
 - Belgium
 - Brazil
 - Finland
 - Israel; and
 - Poland.

3. My choice of countries was informed by the fact that:

- the Republic of South Africa is governed by a written constitution;
 - Parliament is bi-cameral; and
 - the constitutional composition of the Republic is a unitary state with devolved powers to the provinces.
4. All the countries mentioned above are governed by a written constitution or, as is the case with Israel, a number of basic laws. Austria, Belgium and Brazil are federal systems with bi-cameral national legislatures. Poland is unitary with a bi-cameral legislature. Finland and Israel are unitary states with a single legislative chamber. All of these countries are outside the Commonwealth and delegates to their legislatures are elected on the basis of proportional representation. All these countries have multiple parties in their legislatures, although the parties in the Chamber of Representative in Belgium are divided, in terms of the Constitution, along language differences (Flemish, French and German).
5. I did not find any constitutional provision relating to a Leader of the Opposition in any of the constitutions consulted.

Adv F S Jenkins
Parliamentary Legal Adviser