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Or. Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**PROPOSALS FOR AMENDMENT
OF VERSION 9 OF THE SYSTEMATIC THESAURUS**

Note by the Secretariat

PROPOSALS BY SWITZERLAND

1. The right to consult a file, which is one of the aspects of the right to be heard taken from Article 4 of our Constitution, is not provided for in the existing thesaurus. Under "Fair trial" (5.2.9.2), some subdivisions relative to different aspects of this right do exist. Now the list is incomplete. Noticeably, are missing the aspects of the right to consult a file and the rights of notification of the decision.

We thus propose the adjunction of

- either a number **5.2.9.2.14, "Other aspects of fair trial"**.
- or a number **5.2.9.2.14, "Right to consult a file"**; this second solution has one inconvenient, which is the necessity to modify and complete the thesaurus every time a case referring to any new aspect of the right to fair trial arises.

Yet, one problem remains: where the right to consult a file is put forward outside a pending procedure, is the use of the generic keyword "Fair trial" still correct?

2. The Vienna Convention of 23 May 1969 on the Right of Treaties is missing from the list of written rules (ch. **2.1.1**) of categories of Sources of Constitutional Law.

PROPOSALS BY THE SECRETARIAT

- 2.1.1.11 **Sources of Constitutional Law** – Categories – Written rules – European Charter of Local Self-Government.
- 2.3.3 **Sources of Constitutional Law** – Techniques of interpretation – Presumption of constitutionality.
- 4.3.8.2.1 **Institutions** – Executive bodies – Territorial administrative decentralisation – Local self-government.
- 4.7.3 **Institutions** – Army, police forces, prison administration – prison administration.
- 5.1.5 **Fundamental Rights** – General questions – Acquired rights.
- 5.2.4.2.5 **Fundamental Rights** – Civil and political rights – Equality – Criteria of distinction – Age.
- 5.2.9.2.3 **Fundamental Rights** – Civil and political rights – Procedural safeguards – Fair trial – Right to counsel.

- 5.2.9.2.4 **Fundamental Rights** – Civil and political rights – Procedural safeguards – Fair trial – Adversarial principle.
- 5.2.9.2.10 **Fundamental Rights** – Civil and political rights – Procedural safeguards – Fair trial – Double degree of jurisdiction.
Footnote: "This keyword includes the right of appeal to a judicial body."
- 5.2.9.2.11 **Fundamental Rights** – Civil and political rights – Procedural safeguards – Fair trial – Right not to incriminate oneself.
- 5.2.14 **Fundamental Rights** – Civil and political rights – Freedom of expression.
Footnote: "This keyword also includes the right freely to communicate information".
- 5.3.7 **Fundamental Rights** – Economic, social and cultural rights – Contractual freedom.