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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

PROPOSALS FOR AMENDMENTS
TO VERSION 11 OF THE SYSTEMATIC THESAURUS

"Dotted underlined keywords in Chapter 1
of the Systematic Thesaurus have already been approved
by the Working Group at its last meeting in Vaduz on 30 April 1999"

1 CONSTITUTIONAL JUSTICE

1.1 Constitutional jurisdiction¹

- 1.1.1 Statute and organisation
 - 1.1.1.1 Sources
 - 1.1.1.1.1 Constitution
 - 1.1.1.1.2 Institutional Acts
 - 1.1.1.1.3 Other legislation
 - 1.1.1.1.4 Rules of procedure
 - 1.1.1.1.5 Rule adopted by the Court²**
 - 1.1.1.2 ~~Autonomy~~ **Independence**
 - 1.1.1.2.1 Statutory ~~autonomy~~ **independence**
 - 1.1.1.2.2 Administrative ~~autonomy~~ **independence**
 - 1.1.1.2.3 Financial ~~autonomy~~ **independence**
- 1.1.2 Composition, recruitment and structure
 - 1.1.2.1 Number of members
 - 1.1.2.2 Citizenship of members**
 - 1.1.2.3 Appointing authority
 - 1.1.2.4 Appointment of members³
 - 1.1.2.5 Appointment of the President⁴
 - 1.1.2.6 Subdivision into chambers or sections
 - 1.1.2.7 Relative position of members⁵
 - 1.1.2.8 Persons responsible for preparing cases for hearing⁶
 - 1.1.2.9 Staff⁷
- 1.1.3 Status of the members of the court
 - 1.1.3.1 Term of office of Members
 - 1.1.3.2 Term of office of the President
 - 1.1.3.3 Privileges and immunities
 - 1.1.3.4 Professional ~~disqualifications~~ **incompatibilities**
 - 1.1.3.5 Disciplinary measures
 - 1.1.3.6 Remuneration
 - 1.1.3.7 Resignation
 - 1.1.3.8 Members having a particular status⁸
 - 1.1.3.9 Status of staff⁹**
- 1.1.4 Relations with other institutions
 - 1.1.4.1 Head of State
 - 1.1.4.2 Legislative bodies
 - 1.1.4.3 Executive bodies
 - 1.1.4.4 Courts

¹ Constitutional Court or equivalent body (constitutional tribunal or council, supreme court etc).

² Eg Rules of procedure.

³ Including the conditions and manner of such appointment (election, nomination, etc).

⁴ Including the conditions and manner of such appointment (election, nomination, etc).

⁵ Vice-presidents, presidents of chambers or of sections, etc.

⁶ Eg State Counsel, prosecutors etc.

⁷ Registrars, assistants, auditors, general secretaries, researchers, etc.

⁸ Eg assessors, office members.

⁹ Registrars, assistants, auditors, general secretaries, researchers, etc.

1.2 Types of claim

- 1.2.1 Claim by a public body
 - 1.2.1.1 Head of State**
 - 1.2.1.2 Legislative bodies
 - 1.2.1.3 Executive bodies
 - 1.2.1.4 Organs of regional authorities
 - 1.2.1.5 Organs of decentralised authorities
 - 1.2.1.6 Local self-government body**
 - 1.2.1.7 Public Prosecutor or Attorney-General**
 - 1.2.1.8 Ombudsman
 - 1.2.1.9 Member States of the ~~Community~~ **European Union**
 - 1.2.1.10 Institutions of the ~~Community~~ **European Union**
 - 1.2.1.11 Religious authorities**
- 1.2.2 Claim by a private body or individual
 - 1.2.2.1 Natural person
 - 1.2.2.2 Non-profit-making corporate body
 - 1.2.2.3 Profit-making corporate body
 - 1.2.2.4 Political parties
 - 1.2.2.5 Trade unions
- 1.2.3 Referral by a court¹⁰
- 1.2.4 Initiation ex officio by the body of constitutional jurisdiction**

1.3 Jurisdiction

- 1.3.1 Scope of review**
- 1.3.2 Type of review
 - 1.3.2.1 Preliminary review
 - 1.3.2.2 Ex post facto review
 - 1.3.2.3 Abstract review
 - 1.3.2.4 Concrete review
- 1.3.3 Advisory powers**
- 1.3.4 Types of litigation**
 - 1.3.4.1 Litigation in respect of fundamental rights and freedoms
 - 1.3.4.2 Distribution of powers between State authorities¹¹
 - 1.3.4.3 Distribution of powers between central government and federal or regional entities¹²
 - 1.3.4.4 Powers of local authorities¹³
 - 1.3.4.5 Electoral disputes
 - 1.3.4.5.1 Presidential elections
 - 1.3.4.5.2 Parliamentary elections
 - 1.3.4.5.3 Regional elections
 - 1.3.4.5.4 Local elections
 - 1.3.4.5.5 Elections of officers ~~within various occupations in professional bodies~~
 - 1.3.4.5.6 ~~Referendums~~ **Referenda** and other consultations¹⁴
 - 1.3.4.6 Admissibility of ~~referendums~~ **referenda** and other consultations¹⁵
 - 1.3.4.6.1 ~~Referendums~~ **Referenda** on the repeal of legislation
 - 1.3.4.7 Restrictive proceedings

¹⁰ ~~Preliminary references~~ Referrals of preliminary questions in particular.

¹¹ Horizontal distribution of powers.

¹² Vertical distribution of powers, particularly in respect of states of a federal or regionalised nature.

¹³ Decentralised authorities (municipalities, provinces, etc).

¹⁴ This keyword concerns decisions on the procedure and results of ~~referendums~~ **referenda** and other consultations.

¹⁵ This keyword concerns decisions preceding the referendum including its admissibility.

- 1.3.4.7.1 Banning of political parties
- 1.3.4.7.2 Withdrawal of civil rights
- 1.3.4.7.3 Removal from ~~office of Parliament~~ **parliamentary office**
- 1.3.4.7.4 Impeachment
- 1.3.4.8 Litigation in respect of jurisdictional conflict
- 1.3.4.9 Litigation in respect of the formal validity of enactments¹⁶
- 1.3.4.10 Litigation in respect of the constitutionality of enactments
 - 1.3.4.10.1 Limits of the legislative competence
- 1.3.4.11 Litigation in respect of constitutional revision**
- 1.3.4.12 Conflict of laws¹⁷**
- 1.3.4.13 Universally binding interpretation of laws
- 1.3.4.14 Distribution of powers between Community and member States
- 1.3.4.15 Distribution of powers between institutions of the Community

1.3.5 The subject of review

- 1.3.5.1 International treaties
- 1.3.5.2 Community law
 - 1.3.5.2.1 Primary ~~law~~ **legislation**
 - 1.3.5.2.2 ~~Subordinate law~~ **Secondary legislation**
- 1.3.5.3 Constitution¹⁸
- 1.3.5.4 Quasi-constitutional legislation¹⁹
- 1.3.5.5 Laws and other rules having the force of law
 - 1.3.5.5.1 Laws and other rules in force before the entry into force of the Constitution**
- 1.3.5.6 Presidential decrees
- 1.3.5.7 Quasi-legislative regulations
- 1.3.5.8 Regional measures
- 1.3.5.9 Parliamentary rules
- 1.3.5.10 Rules issued by the executive
- 1.3.5.11 Acts issued by decentralised bodies
 - 1.3.5.11.1 Territorial decentralisation²⁰
 - 1.3.5.11.2 Sectoral decentralisation²¹
- 1.3.5.12 Court decisions
- 1.3.5.13 Administrative acts
- 1.3.5.14 ~~Acts of government~~ **Government acts²²**
- 1.3.5.15 Failure to ~~act or to~~ pass legislation²³

1.4 Procedure²⁴

- 1.4.1 General characteristics
- 1.4.2 Summary procedure

¹⁶ Examination of procedural and formal aspects of laws and regulations, particularly in respect of the composition of parliaments, the validity of votes, the competence of law-making authorities, etc (questions relating to the distribution of powers as between the State and federal or regional entities are the subject of another keyword 1.3.4.3).

¹⁷ **As understood in private international law.**

¹⁸ Including constitutional laws.

¹⁹ For example organic laws.

²⁰ Local authorities, municipalities, provinces, departments, etc.

²¹ Or: functional decentralisation (public bodies exercising delegated powers).

²² Political questions.

²³ Unconstitutionality by omission.

²⁴ **The various aspects of the admissibility are dealt with under chapter 1.3 Jurisdiction.**

- 1.4.3 Time-limits for instituting proceedings
 - 1.4.3.1 Ordinary time-limit
 - 1.4.3.2 Special time-limits
 - 1.4.3.3 Leave to appeal out of time
- 1.4.4 Exhaustion of remedies
- 1.4.5 Originating document
 - 1.4.5.1 Decision to act
 - 1.4.5.2 Signature
 - 1.4.5.3 Formal requirements
 - 1.4.5.4 Annexes
 - 1.4.5.5 ~~Service of process~~
- 1.4.6 Grounds
 - 1.4.6.1 Time-limits
 - 1.4.6.2 Form
 - 1.4.6.3 Ex-officio grounds**
- 1.4.7 Documents lodged by the parties²⁵
 - 1.4.7.1 Time-limits
 - 1.4.7.2 Decision to lodge the document
 - 1.4.7.3 Signature
 - 1.4.7.4 Formal requirements
 - 1.4.7.5 Annexes
 - 1.4.7.6 Service
- 1.4.8 Preparation of the case for trial
 - 1.4.8.1 Registration**
 - 1.4.8.2 Notifications and publication
 - 1.4.8.3 Time-limits
 - 1.4.8.4 Preliminary proceedings
 - 1.4.8.5 Opinions
 - 1.4.8.6 Reports
 - 1.4.8.7 Evidence**
 - 1.4.8.7.1 ~~Inquiries into the facts~~ **by the Court**
- 1.4.9 Parties
 - 1.4.9.1 Locus standi²⁶
 - 1.4.9.2 Interest
 - 1.4.9.3 Representation
 - 1.4.9.3.1 The Bar
 - 1.4.9.3.2 Legal representation other than the Bar
 - 1.4.9.3.3 Representation by persons other than lawyers or jurists
- 1.4.10 Interlocutory proceedings
 - 1.4.10.1 Intervention
 - 1.4.10.2 Plea of forgery
 - 1.4.10.3 Resumption of proceedings after interruption
 - 1.4.10.4 Discontinuance of proceedings
 - 1.4.10.5 Joinder of similar cases
 - 1.4.10.6 Challenging of a judge
 - 1.4.10.6.1 Automatic disqualification
 - 1.4.10.6.2 Challenge at the instance of a party
- 1.4.11 Hearing
 - 1.4.11.1 Composition of the **bench**
 - 1.4.11.2 Procedure
 - 1.4.11.3 In public
 - 1.4.11.4 In camera

²⁵ Pleadings, final submissions, notes, etc.

²⁶ To be used in combination with Chapter 1.2 Types of claim.

- 1.4.11.5 Report
- 1.4.11.6 Opinion
- 1.4.11.7 Address by the parties
- 1.4.12 Special procedures
- 1.4.13 Re-opening of hearing
- 1.4.14 Costs²⁷
- 1.4.15 Legal aid or assistance

1.5 Decisions

- 1.5.1 Deliberation
 - 1.5.1.1 Composition of the bench
 - 1.5.1.2 Chair
 - 1.5.1.3 Procedure
 - 1.5.1.3.1 Quorum
 - 1.5.1.3.2 Vote
- 1.5.2 Reasoning
- 1.5.3 Form
- 1.5.4 Types
 - 1.5.4.1 Procedural decisions
 - 1.5.4.2 Opinion
 - 1.5.4.3 Annulment
 - 1.5.4.4 Suspension
 - 1.5.4.5 Modification
 - 1.5.4.6 Finding of constitutionality or unconstitutionality
 - 1.5.4.7 Interim measures
- 1.5.5 Individual opinions of members
 - 1.5.5.1 Concurring opinions
 - 1.5.5.2 Dissenting opinions
- 1.5.6 Delivery and publication
 - 1.5.6.1 Delivery
 - 1.5.6.2 In open court
 - 1.5.6.3 In camera
 - 1.5.6.4 Publication
 - 1.5.6.4.1 Publication in the official journal/gazette
 - 1.5.6.4.2 Publication in an official collection
 - 1.5.6.4.3 Private publication
 - 1.5.6.5 Press

1.6 Effects

- 1.6.1 Scope
- 1.6.2 Determination of effects by the court
- 1.6.3 Effect erga omnes
 - 1.6.3.1 Stare decisis
- 1.6.4 Effect *inter partes*
- 1.6.5 Temporal effect
 - 1.6.5.1 Retrospective effect
 - 1.6.5.2 ~~Limit~~ **Limitation** on retrospective effect
 - 1.6.5.3 Postponement of temporal effect
- 1.6.6 Influence on State organs

²⁷ Comprises court fees, postage costs and advance of expenses.

- 1.6.7 Influence on everyday life
- 1.6.8 Consequences for other cases
 - 1.6.8.1 Ongoing cases
 - 1.6.8.2 Decided cases

2 SOURCES OF CONSTITUTIONAL LAW

2.1 Categories

2.1.1 Written rules

2.1.1.1 National rules

- 2.1.1.1.1 Constitution
- 2.1.1.1.2 Quasi-constitutional enactments²⁸

2.1.1.2 Community law

2.1.1.3 International instruments

- 2.1.1.3.1 United Nations Charter of 1945
- 2.1.1.3.2 Universal Declaration of Human Rights of 1948**
- 2.1.1.3.3 European Convention on Human Rights of 1950²⁹
- 2.1.1.3.4 Geneva Convention on the Status of Refugees of 1951
- 2.1.1.3.5 European Social Charter of 1961
- 2.1.1.3.6 International Covenant on Civil and Political Rights of 1966
- 2.1.1.3.7 International Covenant on Economic, Social and Cultural Rights of 1966
- 2.1.1.3.8 Vienna Convention on the Law of Treaties of 1969
- 2.1.1.3.9 ~~Interamerican~~ **American** Convention on Human Rights of 1969
- 2.1.1.3.10 ~~African Charter of on Human Rights and the Rights of Peoples and Peoples' Rights of 1981~~
- 2.1.1.3.11 European Charter of Local Self-Government of 1985
- 2.1.1.3.12 Convention on the Rights of the Child of 1989
- 2.1.1.3.13 International conventions regulating diplomatic and consular relations

2.1.2 Unwritten rules

- 2.1.2.1 Constitutional custom
- 2.1.2.2 General principles of law
- 2.1.2.3 Natural law

2.1.3 Case-law

- 2.1.3.1 Domestic case-law
- 2.1.3.2 International case-law
 - 2.1.3.2.1 European Court of Human Rights
 - 2.1.3.2.2 Court of Justice of the European Communities
 - 2.1.3.2.3 Other international bodies
- 2.1.3.3 Foreign case-law

2.2 Hierarchy

2.2.1 Hierarchy as between national and non-national sources

- 2.2.1.1 Treaties and constitutions
- 2.2.1.2 Treaties and legislative acts
- 2.2.1.3 Treaties and other domestic legal instruments

²⁸ This keyword allows for the inclusion of enactments and principles arising from a separate constitutional chapter elaborated with reference to the original Constitution (Declarations of rights, Basic Charters, etc).

²⁹ Including its Protocols.

- 2.2.1.4 European Convention on Human Rights and constitutions
- 2.2.1.5 European Convention on Human Rights and ~~other~~ non-constitutional domestic legal instruments
- 2.2.1.6 Community law and domestic law
 - 2.2.1.6.1 Primary Community ~~law~~ **legislation** and constitutions
 - 2.2.1.6.2 Primary Community ~~law~~ **legislation** and domestic non-constitutional legal instruments
 - 2.2.1.6.3 ~~Subordinate Community law~~ **Secondary Community legislation** and constitutions
 - 2.2.1.6.4 ~~Subordinate Community law~~ **Secondary Community legislation** and domestic non-constitutional instruments
- 2.2.2 Hierarchy as between national sources
 - 2.2.2.1 Hierarchy emerging from the Constitution
 - 2.2.2.1.1 Hierarchy attributed to rights and freedoms
 - 2.2.2.2 The Constitution and other sources of domestic law
- 2.2.3 Hierarchy between sources of Community law

2.3 Techniques of interpretation

- 2.3.1 Concept of manifest error in assessing evidence or exercising discretion
- 2.3.2 Concept of constitutionality dependent on a specified interpretation³⁰
- 2.3.3 Intention of the author of the ~~controlled~~ enactment **under review**
- 2.3.4 Interpretation by analogy
- 2.3.5 Logical interpretation
- 2.3.6 Historical interpretation
- 2.3.7 Literal interpretation
- 2.3.8 Systematic interpretation
- 2.3.9 Teleological interpretation

3 GENERAL PRINCIPLES

- 3.1 Sovereignty
- 3.2 Republic/Monarchy
- 3.3 Democracy
 - 3.3.1 Representative democracy
 - 3.3.2 Pluralist democracy**
 - 3.3.3 Direct democracy
- 3.4 Separation of powers
- 3.5 Social State³¹
- 3.6 Federal State
- 3.7 Relations between the State and bodies of a religious or ideological nature³²
- 3.8 Territorial principles
 - 3.8.1 Indivisibility of the territory
- 3.9 Rule of law
- 3.10 Certainty of the law³³
- 3.11 Vested and/or acquired rights
- 3.12 Legality
- 3.13 *Nullum crimen, nulla poena sine lege*³⁴

³⁰ Presumption of constitutionality, double construction rule.

³¹ Includes the principle of social justice.

³² Separation of Church and State, State subsidisation and recognition of churches, secular nature, etc.

³³ Including maintaining confidence and legitimate expectations.

- 3.14 Publication of laws
 - 3.14.1 Ignorance of the law is no excuse**
 - 3.14.2 Linguistic aspects
- 3.15 Proportionality
- 3.16 Weighing of interests
- 3.17 General interest³⁵
- 3.18 Margin of appreciation
- 3.19 Reasonableness
- 3.20 Equality³⁶
- 3.21 Prohibition of arbitrariness
- 3.22 Equity
- 3.23 Loyalty to the State³⁷**
- 3.24 Market economy³⁸**
- 3.25 Principles of Community law
 - 3.25.1 Fundamental principles of the Common Market
 - 3.25.2 Direct effect³⁹
 - 3.25.3 Genuine co-operation between the institutions and the member States

4 INSTITUTIONS

4.1 ~~Constitution drafting body~~ Constituent assembly or equivalent body⁴⁰

- 4.1.1 Procedure
- 4.1.2 Limitations on powers**

4.2 State Symbols

- 4.2.1 Flag
- 4.2.2 National holiday
- 4.2.3 National anthem
- 4.2.4 National emblem
- 4.2.5 Motto
- 4.2.6 Capital city

4.3 Languages

- 4.3.1 Official
- 4.3.2 National
- 4.3.3 Regional
- 4.3.4 Minority

4.4 Head of State

- 4.4.1 Powers
 - 4.4.1.1 Relations with the government⁴¹

³⁴ Prohibition of punishment without proper legal base.

³⁵ Including compelling public interest.

³⁶ Only where not applied as a fundamental right. Also refers to the principle of non-discrimination on the basis of nationality as it is applied in Community law.

³⁷ **Including questions of treason/high crimes.**

³⁸ **Including prohibition on monopolies.**

³⁹ For the principle of primacy of Community law, see 2.2.1.6.

⁴⁰ **Including the body responsible for revising or amending the Constitution.**

- 4.4.1.2 Relations with legislative bodies⁴²
 - 4.4.1.3 Powers with respect to the judiciary⁴³
 - 4.4.1.4 Promulgation of laws
 - 4.4.1.5 International relations**
 - 4.4.1.6 Powers with respect to the armed forces**
- 4.4.2 Appointment
 - 4.4.2.1 Necessary qualifications
 - 4.4.2.2 Incompatibilities
 - ~~4.4.2.3 Election~~
- 4.4.3 Term of office
 - 4.4.3.1 Commencement of office
 - 4.4.3.2 Duration of office
 - 4.4.3.3 Incapacity**
 - 4.4.3.4 End of office
 - 4.4.3.5 Limit on number of presidential terms**
- 4.4.4 Liability or responsibility
 - 4.4.4.1 Legal
 - 4.4.4.1.1 Immunities
 - 4.4.4.2 Political
- 4.5 Legislative bodies
 - 4.5.1 Structure⁴⁴
 - 4.5.2 Powers⁴⁵
 - 4.5.2.1 Delegation to another legislative body⁴⁶**
 - 4.5.3 Composition
 - ~~4.5.3.1 Elections~~
 - ~~4.5.3.1.1 Conditions for eligibility⁴⁷~~
 - ~~4.5.3.1.2 Incompatibilities~~
 - ~~4.5.3.1.3 Representation of minorities~~
 - ~~4.5.3.1.4 Review of validity~~
 - 4.5.3.2 Term of office of the legislative body
 - 4.5.3.2.1 Duration
 - 4.5.3.3 Term of office of members
 - 4.5.3.3.1 Characteristics⁴⁸
 - 4.5.3.3.2 Duration
 - 4.5.3.3.3 End
 - 4.5.4 Organisation⁴⁹
 - 4.5.4.1 Rules of procedure**
 - 4.5.4.2 President/Speaker**
 - 4.5.4.3 Sessions⁵⁰
 - 4.5.4.4 Committees⁵¹
 - 4.5.5 Finances⁵²
 - 4.5.6 Law-making procedure

⁴¹ For example nomination of members of the government, chairing of Cabinet sessions, countersigning of laws.

⁴² For example presidential messages, requests for further debating of a law, right of legislative veto, dissolution.

⁴³ For example the granting of pardons.

⁴⁴ Bicameral, monocameral, special competence of each assembly, etc.

⁴⁵ Including specialised powers of each legislative body.

⁴⁶ **For delegation of powers to an executive body, see keyword 4.6.3.2.**

⁴⁷ For example age, nationality, residence.

⁴⁸ Imperative mandates.

⁴⁹ Presidency, bureau, sections, committees, etc.

⁵⁰ Including the convening, duration, publicity and agenda of sessions.

⁵¹ Including their creation, composition and terms of reference.

⁵² State budgetary contribution, other sources, etc.

- 4.5.6.1 Right to initiate legislation
 - 4.5.6.2 Quorum**
 - 4.5.6.3 Right of amendment
 - 4.5.6.4 Relations between houses
 - ~~4.5.7 Guarantees as to the exercise of power~~
 - 4.5.8 Relations with the Head of State
 - 4.5.9 Relations with the executive bodies
 - 4.5.9.1 Questions to the government
 - 4.5.9.2 Questions of confidence
 - 4.5.9.3 Motion of censure
 - 4.5.10 Relations with the courts
 - 4.5.11 Liability
 - 4.5.12 Political parties
 - 4.5.12.1 Creation
 - 4.5.12.2 Financing
 - 4.5.12.3 Role
 - 4.5.12.4 Prohibition
 - 4.5.13 Status of members of legislative bodies⁵³
- 4.6 Executive bodies⁵⁴
- 4.6.1 Hierarchy
 - 4.6.2 Powers
 - 4.6.3 Application of laws
 - 4.6.3.1 Autonomous rule-making powers⁵⁵
 - 4.6.3.2 Delegated rule-making powers
 - 4.6.4 Composition
 - 4.6.4.1 Status of members of executive bodies**
 - 4.6.5 Organisation
 - 4.6.6 Relations with the Head of State
 - 4.6.7 Relations with the legislative bodies
 - 4.6.8 Relations with the courts
 - 4.6.9 Territorial administrative decentralisation⁵⁶
 - 4.6.9.1 Principles
 - 4.6.9.1.1 Local self-government
 - 4.6.9.1.2 Supervision
 - 4.6.9.2 Structure
 - 4.6.9.2.1 Provinces
 - 4.6.9.2.2 Municipalities
 - 4.6.10 Sectoral decentralisation⁵⁷
 - 4.6.10.1 Universities
 - 4.6.11 The civil service⁵⁸
 - 4.6.11.1 Conditions of access
 - 4.6.11.2 Reasons for exclusion
 - 4.6.11.2.1 Lustration⁵⁹

⁵³ For example incompatibilities arising during the term of office, parliamentary immunity, exemption from prosecution and others.

⁵⁴ All these keywords apply equally to bodies of local self-government.

⁵⁵ Derived directly from the constitution.

⁵⁶ Local authorities.

⁵⁷ The vesting of administrative competence in public law bodies independent of public authorities, but controlled by them.

⁵⁸ Civil servants, administrators, etc.

⁵⁹ Practice aiming at removing from civil service persons formerly involved with a totalitarian regime.

- 4.6.11.3 Remuneration
- 4.6.11.4 Personal liability
- 4.6.11.5 Trade union status
- 4.6.12 Liability
 - 4.6.12.1 Legal
 - 4.6.12.1.1 Immunity**
 - 4.6.12.1.2 Civil
 - 4.6.12.1.3 Criminal
 - 4.6.12.2 Political

4.7 Jurisdictional bodies Courts and tribunals⁶⁰

- 4.7.1 Jurisdiction
 - 4.7.1.1 Exclusive
 - 4.7.1.2 Universal
 - 4.7.1.3 Conflicts of jurisdiction⁶¹
- 4.7.2 Procedure
- 4.7.3 Decisions
- 4.7.4 Organisation
 - 4.7.4.1 Members
 - 4.7.4.1.1 Appointment**
 - 4.7.4.1.2 Status
 - 4.7.4.1.3 Qualifications**
 - 4.7.4.1.4 Incompatibilities**
 - 4.7.4.1.5 Discipline
 - 4.7.4.2 Officers of the court
 - 4.7.4.3 Prosecutors / State counsel
 - 4.7.4.4 Languages
 - 4.7.4.5 Registry
 - 4.7.4.6 Budget**
- 4.7.5 Supreme Judicial Council or equivalent body**⁶²
- 4.7.6 Relations with bodies of international jurisdiction
- 4.7.7 Supreme court
- 4.7.8 Ordinary courts
 - 4.7.8.1 Civil courts
 - 4.7.8.2 Criminal courts
- 4.7.9 Administrative courts
- 4.7.10 Financial courts⁶³
- 4.7.11 Military courts
- 4.7.12 Special courts
- 4.7.13 Other courts
- 4.7.14 Arbitration
- 4.7.15 Legal assistance and representation of parties
 - 4.7.15.1 The Bar
 - 4.7.15.1.1 Organisation
 - 4.7.15.1.2 Powers of ruling bodies
 - 4.7.15.1.3 Role of members of the Bar
 - 4.7.15.1.4 Status of members of the Bar
 - 4.7.15.1.5 Discipline
 - 4.7.15.2 Assistance other than by the Bar
 - 4.7.15.2.1 Legal advisers

⁶⁰ Other than the body delivering the decision summarised here.

⁶¹ Positive and negative conflicts.

⁶² For example, Judicial Service Commission (UK), Conseil supérieur de la magistrature (F).

⁶³ Comprises the Court of Auditors in so far as it exercises jurisdictional power.

- 4.7.15.2.2 Legal assistance bodies
 - 4.7.16 Liability
 - 4.7.16.1 Liability of the State
 - 4.7.16.2 Liability of judges
- 4.8 Federalism and regionalism
 - 4.8.1 Basic principles
 - 4.8.2 Geographical boundaries**
 - 4.8.3 Institutional aspects
 - 4.8.3.1 Deliberative assembly
 - 4.8.3.2 Executive
 - 4.8.3.3 Courts
 - 4.8.3.4 Administrative authorities
 - 4.8.4 Budgetary and financial aspects
 - 4.8.4.1 Finance
 - 4.8.4.2 Arrangements for distributing the financial resources of the State
 - 4.8.4.3 Budget
 - 4.8.4.4 Mutual support arrangements
 - 4.8.5 Distribution of powers
 - 4.8.5.1 Principles and methods
 - 4.8.5.2 Implementation
 - 4.8.5.2.1 Distribution *ratione materiae*
 - 4.8.5.2.2 Distribution *ratione loci*
 - 4.8.5.2.3 Distribution *ratione temporis*
 - 4.8.5.2.4 Distribution *ratione personae*
 - 4.8.5.3 Supervision
 - 4.8.5.4 Co-operation
 - 4.8.5.5 International relations
 - 4.8.5.5.1 Conclusion of treaties
 - 4.8.5.5.2 Participation in ~~organs of the European Communities~~ **an international organisation or body**
- 4.9 Elections and referenda⁶⁴
 - 4.9.1 Electoral system**⁶⁵
 - 4.9.2 Eligibility**
 - 4.9.3 Representation of minorities**
 - 4.9.4 Initiation**
 - 4.9.5 Preliminary procedures**
 - 4.9.5.1 Electoral rolls**
 - 4.9.5.2 Voter registration card**
 - 4.9.5.3 Candidacy**
 - 4.9.5.4 Ballot papers**⁶⁶
 - 4.9.6 Campaign material**⁶⁷
 - 4.9.7 Voting procedures**
 - 4.9.7.1 Polling stations**
 - 4.9.7.2 Polling booths**
 - 4.9.7.3 Voting**⁶⁸

⁶⁴ See also keyword 5.2.38 Electoral rights.

⁶⁵ Proportional, majority, preferential, single-member constituencies etc.

⁶⁶ Eg Names of parties, order of presentation, logo, emblem or question in a referendum.

⁶⁷ Tracts, letters, press, radio and television, posters, nominations etc.

⁶⁸ Incidents, disturbances.

- 4.9.7.4 Identity checks on voters
 - 4.9.7.5 Record of persons having voted
 - 4.9.7.6 Proxy or postal votes
 - 4.9.7.7 Counting of votes
 - 4.9.7.8 Minimum participation rate required
 - 4.9.7.9 Announcement of results
- 4.9.8 Effects
- 4.10 Public finances
 - 4.10.1 Principles
 - 4.10.2 Budget
 - 4.10.3 Accounts
 - 4.10.4 Currency
 - 4.10.5 Central bank
 - 4.10.6 Auditing bodies⁶⁹
 - 4.10.7 Taxation
 - 4.10.7.1 Principles
 - 4.10.8 State assets
 - 4.10.8.1 Privatisation
- 4.11 Armed forces, police forces and secret services
 - 4.11.1 Armed forces
 - 4.11.2 Police forces
 - 4.11.3 Secret services
- 4.12 Ombudsman⁷⁰
 - 4.12.1 Appointment
 - 4.12.2 Guarantees of independence
 - 4.12.2.1 Term of office
 - 4.12.2.2 Incompatibilities
 - 4.12.2.3 Immunities
 - 4.12.2.4 Financial independence
 - 4.12.3 Organisation
 - 4.12.4 Relations with the Head of State
 - 4.12.5 Relations with the legislature
 - 4.12.6 Relations with the executive
 - 4.12.7 Relations with auditing bodies⁷¹
 - 4.12.8 Relations with the courts
 - 4.12.9 Relations with federal or regional authorities
- 4.13 Independent administrative authorities

⁶⁹ Eg Auditor-General.

⁷⁰ Parliamentary Commissioner, Public Defender, Human Rights Commission, etc.

⁷¹ Eg Court of Auditors.

4.14 Economic Activities and duties of the State

4.14.1 Economic

4.14.2 Health care

4.14.3 Education

4.14.4 Culture

4.15 Exercise of public functions by private bodies

4.16 Transfer of powers to international institutions

4.17 State of emergency and emergency powers⁷²

4.18 European Union

4.18.1 Institutional structure

4.18.1.1 European Parliament

4.18.1.2 Council

4.18.1.3 Commission

4.18.1.4 Court of Justice of the European Communities⁷³

4.18.2 Distribution of powers between Community and member States

4.18.3 Distribution of powers between institutions of the Community

4.18.4 Legislative procedure

5 FUNDAMENTAL RIGHTS⁷⁴

5.1 General questions

5.1.1 Basic principles

5.1.1.1 Nature of the list of fundamental rights⁷⁵

~~5.1.1.2 Equality and non-discrimination⁷⁶~~

5.1.1.3 *Non bis in idem*

5.1.2 Entitlement to rights

5.1.2.1 Nationals

5.1.2.1.1 Nationals living abroad

5.1.2.2 Foreigners

5.1.2.2.1 Refugees and applicants for refugee status

5.1.2.3 Natural persons

5.1.2.3.1 Minors

5.1.2.3.2 Incapacitated

5.1.2.3.3 Prisoners

5.1.2.3.4 Military personnel

5.1.2.4 Legal persons

5.1.2.4.1 Private law

5.1.2.4.2 Public law

⁷² Including state of war, martial law, declared natural disasters etc; for human rights aspects, see also keyword 5.1.5.

⁷³ Institutional aspects only: questions of procedure, jurisdiction, composition etc are dealt with under the keywords of Chapter 1.

⁷⁴ Positive and negative aspects.

⁷⁵ Open-ended or finite.

⁷⁶ If applied in combination with another fundamental right.

- 5.1.3 Effects
 - 5.1.3.1 Vertical effects
 - 5.1.3.2 Horizontal effects⁷⁷
- 5.1.4 Duties associated with fundamental rights**
- 5.1.5 Limits and restrictions
- 5.1.6 Emergency situations
- 5.1.7 Right of resistance**

5.2 Civil and political rights

- 5.2.1 Right to dignity**
- 5.2.2 Right to life
- 5.2.3 Prohibition of torture and inhuman and degrading treatment
- 5.2.4 Right to physical **and psychological** integrity
 - 5.2.4.1 Scientific and medical treatment and experiments**
- 5.2.5 Equality⁷⁸
 - 5.2.5.1 Scope of application
 - 5.2.5.1.1 Public burdens⁷⁹
 - 5.2.5.1.2 Employment
 - 5.2.5.1.2.1 Private
 - 5.2.5.1.2.2 Public
 - 5.2.5.1.3 Social security
 - 5.2.5.1.4 Elections
 - 5.2.5.2 Criteria of distinction
 - 5.2.5.2.1 Gender
 - 5.2.5.2.2 Race
 - 5.2.5.2.3 National or ethnic origin⁸⁰
 - 5.2.5.2.4 Citizenship
 - 5.2.5.2.5 Social origin
 - 5.2.5.2.6 Religion
 - 5.2.5.2.7 Age
 - 5.2.5.2.8 Physical or mental handicap disability**
 - 5.2.5.2.9 Political opinions or affiliation**
 - 5.2.5.2.10 Language**
 - 5.2.5.2.11 Sexual orientation**
 - 5.2.5.2.12 Civil status⁸¹**
 - 5.2.5.3 Affirmative action
- 5.2.6 Individual liberty⁸²
 - 5.2.6.1 Deprivation of liberty
 - 5.2.6.1.1 Arrest
 - 5.2.6.1.2 Non-penal measures
 - 5.2.6.1.3 Detention pending trial
 - 5.2.6.2 Prohibition of forced or compulsory labour
- 5.2.7 Freedom of movement
 - 5.2.7.1 Right to a passport**
- 5.2.8 Right to emigrate
- 5.2.9 Security of the person

⁷⁷ The question of "Drittwirkung".

⁷⁸ Used independently from other rights.

⁷⁹ **Taxes and other duties towards the state.**

⁸⁰ Here, the term "national" is used to designate ethnic origin.

⁸¹ **Discrimination in particular between married and single persons.**

⁸² This keyword also covers "Personal liberty" It includes for example identity checking, personal search and administrative arrest. Detention pending trial is treated under "Procedural safeguards—Detention pending trial".

- 5.2.10 Rights of victims of crime**
 - 5.2.10.1 Right to participate in the administration of justice**
 - 5.2.10.2 Compensation**
- 5.2.11 Procedural safeguards and fair trial
 - 5.2.11.1 Scope
 - 5.2.11.1.1 Non-litigious administrative procedure
 - 5.2.11.2 Access to courts⁸³
 - 5.2.11.2.1 *Habeas corpus*
 - 5.2.11.3 Right to a hearing**
 - 5.2.11.3.1 Right to be present at hearing**
 - 5.2.11.4 Public hearings
 - 5.2.11.5 Trial by jury**
 - 5.2.11.6 Public judgments
 - 5.2.11.7 Right to be informed about the decision
 - 5.2.11.8 Right of access to the file
 - 5.2.11.9 Trial within reasonable time
 - 5.2.11.10 Independence
 - 5.2.11.11 Impartiality
 - 5.2.11.12 Double degree of jurisdiction⁸⁴
 - 5.2.11.13 Prohibition of *reformatio in peius*
 - 5.2.11.14 Rules of evidence
 - 5.2.11.15 Reasoning
 - 5.2.11.16 Rights of the defence
 - 5.2.11.17 Equality of arms
 - 5.2.11.18 Adversarial hearings⁸⁵
 - 5.2.11.19 Languages
 - 5.2.11.20 Presumption of innocence
 - 5.2.11.21 Right not to incriminate oneself
 - 5.2.11.22 Right not to incriminate spouse/close family**
 - 5.2.11.23 Right to be informed about the reasons of detention
 - 5.2.11.24 Right to be informed about the charges
 - 5.2.11.25 Right to have adequate time and facilities for the preparation of the case
 - 5.2.11.26 Right to counsel
 - 5.2.11.27 Right to examine witnesses
- 5.2.12 Right to compensation for damage caused by the State**
- 5.2.13 Rights of domicile and establishment
- 5.2.14 Freedom of conscience⁸⁶
- 5.2.15 Freedom of opinion
- 5.2.16 Freedom of worship
- 5.2.17 Freedom of expression⁸⁷
- 5.2.18 Freedom of the written press
- 5.2.19 Rights in respect of the audiovisual media and other means of mass communication
- 5.2.20 Right to information
- 5.2.21 Right to administrative transparency
- 5.2.22 Right of access to administrative documents
- 5.2.23 Right to a nationality
 - 5.2.23.1 Dual nationality**
- 5.2.24 Right of residence⁸⁸**

⁸³ Including the right of access to a tribunal established by law; for questions related to the establishment of extraordinary courts, see also keyword 4.7.12.

⁸⁴ This keyword covers the right to a jurisdictional appeal.

⁸⁵ Audiatur et altera pars - adversarial principle.

⁸⁶ Covers freedom of religion as an individual right. Its collective aspects are included under the keyword "Freedom of worship" below.

⁸⁷ This keyword also includes the right to freely communicate information.

- 5.2.25 National service⁸⁹
- 5.2.26 Freedom of association
- 5.2.27 Freedom of assembly
- 5.2.28 Right to participate in political activity
- 5.2.29 Right to respect for one's honour and reputation
- 5.2.30 Right to private life
 - 5.2.30.1 Protection of personal data
- 5.2.31 Right to family life⁹⁰
 - 5.2.31.1 Descent
 - 5.2.31.2 Succession
- 5.2.32 Inviolability of the home
- 5.2.33 Inviolability of communications
 - 5.2.33.1 Correspondence
 - 5.2.33.2 Telephonic communications
 - 5.2.33.3 Electronic communications
- 5.2.34 Right of petition
- 5.2.35 Non-retrospective effect of law
 - 5.2.35.1 Criminal law
 - 5.2.35.2 Civil law
 - 5.2.35.3 Taxation law
- 5.2.36 Right to property⁹¹
 - 5.2.36.1 Expropriation
 - 5.2.36.2 Nationalisation
 - 5.2.36.3 Other limitations
 - 5.2.36.4 Privatisation
- 5.2.37 Linguistic freedom
- 5.2.38 Electoral rights
 - 5.2.38.1 Right to vote
 - 5.2.38.2 Right to ~~be elected~~ stand for election
 - 5.2.38.3 Secret ballot**
- 5.2.39 Rights in respect of taxation
- 5.2.40 Right of asylum
- 5.2.41 Right to self fulfilment
- 5.2.42 Rights of the child
- 5.2.43 Protection of minorities and persons belonging to minorities

5.3 Economic, social and cultural rights

- 5.3.1 Freedom to teach
- 5.3.2 Right to ~~be taught~~ education
 - 5.3.2.1 Mandatory schooling**
- 5.3.3 Right to work
- 5.3.4 Right to unemployment benefits**
- 5.3.5 Freedom to choose one's profession⁹²
- 5.3.6 Freedom to work for remuneration
- 5.3.7 Commercial and industrial freedom
- 5.3.8 Right of access to the public service
- 5.3.9 Right to strike
- 5.3.10 Freedom of trade unions⁹³

⁸⁸ **May include questions of expulsion and extradition.**

⁸⁹ Militia, conscientious objection, etc.

⁹⁰ Aspects of the use of names are included either here or under "Right to private life".

⁹¹ **Including compensation issues.**

⁹² This keyword also covers "Freedom of work".

⁹³ **Includes rights of the individual with respect to trade unions, rights of trade unions and the right to conclude collective**

- 5.3.11 Right to intellectual property
- 5.3.12 Right to housing
- 5.3.13 Right to social security
- 5.3.14 Right to a pension**
- 5.3.15 Right to just and decent working conditions
- 5.3.16 Right to a sufficient standard of living
- 5.3.17 Right to health
- 5.3.18 Right to culture
- 5.3.19 Scientific freedom
- 5.3.20 Artistic freedom

5.4 Collective rights

- 5.4.1 Right to the environment
- 5.4.2 Right to development
- 5.4.3 Right to peace
- 5.4.4 Right to self-determination

In addition, the Secretariat proposes to rearrange the chapters of the Systematic Thesaurus in the following order:

- 1 Fundamental Rights*
- 2 General Principles*
- 3 Institutions*
- 4 Sources of constitutional law*
- 5 Constitutional Justice*