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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**The Systematic Thesaurus and Alphabetical Index
of the Venice Commission**

USER'S GUIDE

Background information

The Venice Commission has been cooperating with Constitutional Courts and equivalent bodies (Constitutional Councils, Supreme Courts etc.) since 1993 with the aim of contributing to the exchange of information between these courts and to the wide dissemination of decisions to interested persons. With this in mind, the Commission has set up a Centre on Constitutional Justice in Strasbourg, designed to collect information on the case-law of participating courts and to make it available to the courts themselves and also to interested persons.

Similarly, the Commission has set up a network of liaison officers in these courts. These liaison officers contribute three times a year to the *Bulletin on Constitutional Case-Law* and to the Commission's CODICES database. These publications allow readers to gain a rapid overview of the most important decisions of the participating courts. Thus the *Bulletin* and CODICES contribute to the awareness of the common constitutional heritage in Europe and beyond.

From the beginning of this project it was clear that a vast body of information would become available at the Centre. Today the CODICES database contains 2000 précis as well as 1600 full texts of decisions. In addition it includes descriptions of courts, constitutions and laws on constitutional courts. It was thus vital to use a coherent classification system which allow easy access to the information available in the *Bulletin* and CODICES. Indexing was necessary to avoid the problems associated with searching only in the full body of a text, so as to avoid, for example, the situation where a search for decisions on "equality" would fail to list decisions that did not contain this word but spoke only of "discrimination".

Existing general library thesauruses such as Eurovoc do not allow for sufficiently detailed indexing (classification) of information. They frequently contain only one keyword, "constitution", to cover the whole field of constitutional law. Thesauruses specific to the field were also not sufficient.

Consequently, in 1993 the Sub-Commission on Constitutional Justice and the courts' liaison officers invited Messrs Ryckeboer and Vandernoot, liaison officers of the Belgian Court of Arbitration, to undertake a study on the improvement and development of the *Bulletin* and on the creation of a computerised database on the case-law of constitutional courts. This study concluded that such a project was feasible, drawing on the resources of the Venice Commission, and recommended starting with a paper version of the *Bulletin* and setting up a database at a later stage. The study presented the *Bulletin's* structure as it remains today (with some minor modifications) as well as an initial version of the classification system known as the Systematic Thesaurus.

Given that the work involved in revising the Thesaurus takes a great deal of time, the Sub-Commission assigned a working group composed of several liaison officers to prepare proposals for amendments. The work of this group is a fascinating application of comparative constitutional law as terms must be found to cover the entire group of participating courts. The Systematic Thesaurus is thus a "living" system, which is already in its 11th version.

The initial purpose of the Systematic Thesaurus was solely to index the decisions of participating courts. However, at the 13th meeting of the Sub-Commission on Constitutional Justice with liaison officers in Brussels (31 October 1997), the participants decided to undertake the indexing, section by section, of the constitutions of the relevant countries. The aim of the exercise is to be

able to search, by a simple click in the CODICES database, for all the sections of constitutions pertaining to a keyword in the thesaurus (for example all the sections in all the indexed constitutions dealing with the "freedom of expression"). This project has necessitated the expansion of the thesaurus to include keywords which are often to be found in constitutions but are rarely the subjects of a Constitutional Court decision, for example state symbols such as flags, national anthems etc.

The Systematic Thesaurus was designed from the outset as bilingual, using the official languages of the Council of Europe, English and French^[1]. This bilingualism is important where there is doubt as to the correct use of a keyword of which the application may not seem obvious.

In 1998 Ms Remy-Granger, Secretary General of the "Association des cours constitutionnelles ayant en partage l'usage du français" (ACCPUF) and liaison officer of the French Constitutional Council requested that the Venice Commission make the structure of the *Bulletin* and the Systematic Thesaurus available to the Association (CDL-JU (98) 18). The Association had just begun a programme of gathering documentation on the case-law of its participating courts. Given that a number of courts are involved in the work both of the Commission and of the Association,^[2] the latter placed great emphasis on the need for researchers to find structures in the *Bulletin* and database of ACCPUF that were identical to those in the *Bulletin on Constitutional Case-Law* and CODICES.

The two organs thus drew up a draft agreement providing for the exchange of information between both Parties, allowing them to establish increased cooperation, highlighting their fruitful cooperation in the past and seeking to strengthen it and thereby share their experience.

Following the decisions taken at the 14th meeting of the Sub-Commission on Constitutional Justice of the Venice Commission (hereafter the "Sub-Commission") with the liaison officers in Ljubljana on 15 June 1998, at the Second Conference of Heads of Institutions of the Association in Beirut on 10-13 September 1998 and at the 36th Plenary Meeting of the Commission in Venice on 16-17 October 1998 authorising such cooperation, the agreement was signed in Vaduz on 30 April 1998 (CDL-JU (99) 9).

Contents of the Systematic Thesaurus

The Thesaurus includes five chapters.

Chapter 1 of the Thesaurus, which is moreover the longest of the five chapters, covers the body of constitutional jurisdiction of which the decision is being indexed (Constitutional Court, Supreme Court, Constitutional Council etc.). This chapter should be used restrictively, as the keywords in it should only be used if a relevant procedural question is raised. This chapter is thus not used to establish statistical data; rather, the *Bulletin* reader or user of the CODICES database should only find decisions under this chapter when the subject of the keyword is an issue in the case.

For this reason it is advisable to index in the reverse order of chapters, i.e. starting with chapter 5, then 4, then 3 etc.

^[1] An unofficial translation also exists in Russian.

^[2] Belgium, Bulgaria, Canada, France, Luxembourg, Moldova, Poland, Romania, Slovenia and Switzerland.

Chapter 1.1 deals with the structure of the Court in question, 1.2 covers the different applicants, 1.3 speaks of the jurisdiction of the Court. Chapter 1.4 deals with the enactment under review. The various procedural aspects before the Court can be found in 1.5. Questions of procedural guarantees before lower instance courts are to be found in chapter 5.2.9 of the Thesaurus. If the type of decision to be taken is at issue, chapter 1.6 should be used. Finally, chapter 1.7 deals with the effects of the decision if they are of interest.

Chapter 2 covers the sources of constitutional law. 2.1 covers national and international sources (treaties, case-law etc), questions of hierarchy between sources are dealt with in 2.2 and the various techniques of interpretation in 2.3.

Chapter 3 covers the general principles of constitutional law, such as democracy (3.3) or the separation of powers (3.4) The principle of equality also figures at 3.20. It should be noted, however, that this keyword is only to be used when the principle of equality is not applied to individuals (as a fundamental right). In that case the keyword "equality" in chapter 5.2.4 should be used.

Chapter 4 covers state institutions, especially the head of state (4.4), parliament (4.5), government (4.6) and courts other than the court with constitutional jurisdiction (4.7). Chapter 4.8 applies to states with a federal or regional structure. Then follow the institutions such as public finances (4.9), armed forces, police forces and secret services (4.10), the Ombudsman (4.11) and other special cases. Chapter 4.16 deals with issues related to the institutions of the European Union.

Chapter 5 is subdivided in accordance with the two United Nations Covenants on civil and political rights (5.2) and economic, social and cultural rights (5.3). Chapter 5.1 covers general questions such as entitlement to rights (5.1.2) and limitations on fundamental rights (5.1.4). Chapter 5.4 gathers together certain rights known as collective rights.

The footnotes are a very important element in all five chapters of the Thesaurus. They serve to explain the keywords and to advise as to their correct use. In some cases they also contain cross-references to other keywords, which should be used.

Another very important element is the indexing of what the reader will see. Usually it is the précis of the *Bulletin on Constitutional Case-Law* that are indexed. Thus only the elements appearing in the précis as it is to be published should be indexed, and not subjects which only appear in the full text of the decision. If such a subject is important enough to be indexed in the Thesaurus, then it should also be included in the précis. If it is not appropriate to include it in the précis, then it should not be indexed either.

Formal structure of the Systematic Thesaurus

The Systematic Thesaurus is subdivided into five chapters, like the branches of a tree (hence the branched, hierarchical structure of the Thesaurus). The major branches of this "tree" are subdivided into ever finer branches, and thus the subjects covered by the branches become more and more specific. Take for example the word "equality" applied as a fundamental right. The first level is "5 Fundamental rights", then "5.2 Civil and political rights" and at the third level "5.2.4 Equality". But this keyword is further subdivided into "5.2.4.1 Scope of application" and "5.2.4.2 Criteria of distinction". This latter branch is again divided into different criteria such as

"5.2.4.2.1 Gender", "5.2.4.2.2 Race" etc. When indexing, a complete "chain of keywords" must always be given without omitting intermediate links. For example "5.2.4.2.1 Fundamental rights - Civil and political rights - Equality - Criteria of distinction - Gender" to indicate a decision dealing with discrimination based on gender.

A chain of keywords in the systematic thesaurus may, however, be given without going to the end of a possible chain if there is no last term in the chain that corresponds to the contents of a decision. For example, the keyword "5.2.4.2 Fundamental rights - Civil and political rights - Equality - Criteria of distinction" should be used to index a decision based on a criterion of distinction that is not given in the Thesaurus, such as an arbitrary date. In this case the criterion should be added to the list of keywords in the Alphabetical Index. However, as stated above, it is not permissible to make shortcuts within chains or to mix keywords from different chains.

The keyword chain always begins with a capital letter and ends with a full stop ".".

Examples

A. Wrong (shortcut of keyword chain):

5.2.9.8 **Fundamental Rights** – Civil and political rights – Independence.

Correct:

5.2.9.8 **Fundamental Rights** – Civil and political rights – Procedural safeguards and fair trial – Independence.

B. Wrong (joinder of two keyword chains):

5.2.9.9 **Fundamental Rights** – Civil and political rights – Procedural safeguards and fair trial – Independence – Impartiality.

Correct:

5.2.9.8 **Fundamental Rights** – Civil and political rights – Procedural safeguards and fair trial – Independence.

5.2.9.9 **Fundamental Rights** – Civil and political rights – Procedural safeguards and fair trial – Impartiality.

C. Wrong (invention of keyword):

5.2.25 **Fundamental Rights** – Civil and political rights – Right to respect for one's honour and reputation – Libel.

Correct:

5.2.25 **Fundamental Rights** – Civil and political rights – Right to respect for one's honour and reputation.

and the use of a separate keyword "Libel" in the alphabetical index.

Keywords of the Alphabetical Index:

The alphabetical index is used to index concepts that are not found in the Systematic Thesaurus, which only covers constitutional law issues. The alphabetical index thus serves for the indexing of other branches of law (civil, criminal etc) as well as to refine or narrow down a keyword of the Thesaurus (see the "libel" example above). It is used especially to index legal keywords, but may also cover factual matters such as "housing" or "forest".

Liaison officers are free to add new keywords to the alphabetical index. It is nonetheless advisable to use keywords that have been used previously. The computerised entry mask suggests a list of such keywords. This mask will also include a list of cross-references to other keywords that should be used (for example, not "termination of pregnancy" but "abortion") as well as cross-references to the Systematic Thesaurus (for example, do not use "Police" in the index but rather "4.10.2 Institutions - Armed forces, police forces and secret services - Police forces" in the Thesaurus).

A repetition of keywords of the systematic thesaurus should be avoided, but elements figuring in the footnotes to the thesaurus may be used in the alphabetical index. Keywords may consist of more than one word, but their total length must not exceed 80 characters including spaces between words. Plural forms should be avoided where possible.

The keywords should be separated by space, slash, space " / " and begin with a capital letter. The list of keywords ends with a full stop ".".

The most important element of the keyword should be placed first in order to determine the place in which it appears in the index at the end of the *Bulletin*. Prepositions at the end of such inverted keywords are deleted:

Example: **"Administration of local communities" becomes**

"Local community, administration" (the keyword is inverted to place the most important element first; the preposition "of" is deleted and the keyword is in the singular)

These rules do not apply, however, to composite terms designating a well defined legal concept.

Example: "Free movement of persons" is correct.