

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 Rule issued by the executive

1.1.1.1.5 Rule adopted by the Court²

1.1.1.2 Independence

1.1.1.2.1 Statutory independence

1.1.1.2.2 Administrative independence

1.1.1.2.3 Financial 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 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 State¹⁰

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 E.g. 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 E.g. State Counsel, prosecutors etc.

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

⁸ E.g. assessors, office members.

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

¹⁰ Including questions on the interim exercise of the functions of the Head of State.

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 sectoral decentralisation
 - 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 European Union
 - 1.2.1.10 Institutions of the 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 court¹¹
- 1.2.4 Initiation *ex officio* by the body of constitutional jurisdiction
- 1.2.5 Obligatory review¹²

1.3 Jurisdiction

- 1.3.1 Scope of review
 - 1.3.1.1 Extension¹³
- 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 authorities¹⁴
 - 1.3.4.3 Distribution of powers between central government and federal or regional entities¹⁵
 - 1.3.4.4 Powers of local authorities¹⁶
 - 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 in professional bodies
 - 1.3.4.5.6 Referenda and other consultations¹⁷
 - 1.3.4.6 Admissibility of referenda and other consultations¹⁸
 - 1.3.4.6.1 Referenda on the repeal of legislation

¹¹ Referrals of preliminary questions in particular.

¹² Enactment required by law to be reviewed by the Court.

¹³ Review *ultra petita*.

¹⁴ Horizontal distribution of powers.

¹⁵ Vertical distribution of powers, particularly in respect of states of a federal or regionalised nature.

¹⁶ Decentralised authorities (municipalities, provinces etc).

¹⁷ This keyword concerns decisions on the procedure and results of referenda and other consultations.

¹⁸ This keyword concerns decisions preceding the referendum including its admissibility.

- 1.3.4.7 Restrictive proceedings
 - 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 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 enactments¹⁹
- 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 laws²⁰
- 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 legislation
 - 1.3.5.2.2 Secondary legislation
 - 1.3.5.3 Constitution²¹
 - 1.3.5.4 Quasi-constitutional legislation²²
 - 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 Rules issued by federal or regional entities
 - 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 decentralisation²³
 - 1.3.5.11.2 Sectoral decentralisation²⁴
 - 1.3.5.12 Court decisions
 - 1.3.5.13 Administrative acts
 - 1.3.5.14 Government acts²⁵
 - 1.3.5.15 Failure to act or to pass legislation²⁶
- 1.4 Procedure
 - 1.4.1 General characteristics
 - 1.4.2 Summary procedure
 - 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

¹⁹ 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).

²⁰ As understood in private international law.

²¹ Including constitutional laws.

²² For example organic laws.

²³ Local authorities, municipalities, provinces, departments etc.

²⁴ Or: functional decentralisation (public bodies exercising delegated powers).

²⁵ Political questions.

²⁶ Unconstitutionality by omission.

- 1.4.5 Originating document
 - 1.4.5.1 Decision to act²⁷
 - 1.4.5.2 Signature
 - 1.4.5.3 Formal requirements
 - 1.4.5.4 Annexes
 - 1.4.5.5 Service
- 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 parties²⁸
 - 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
 - 1.4.8.8 Decision to close preparation
- 1.4.9 Parties
 - 1.4.9.1 *Locus standi*²⁹
 - 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 proceedings³⁰
 - 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
 - 1.4.11.5 Report

²⁷ For the withdrawal of proceedings, see also 1.4.10.4

²⁸ Pleadings, final submissions, notes etc.

²⁹ May be used in combination with Chapter 1.2 Types of claim.

³⁰ For the withdrawal of the originating document, see also 1.4.5.

- 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 Costs³¹
 - 1.4.14.1 Waiver of court fees
 - 1.4.14.2 Legal aid or assistance
 - 1.4.14.3 Party costs
- 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 Finding of constitutionality or unconstitutionality³²
 - 1.5.4.4 Annulment
 - 1.5.4.4.1 Consequential annulment
 - 1.5.4.5 Suspension
 - 1.5.4.6 Modification
 - 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 (*ex tunc*)
 - 1.6.5.2 Limitation on retrospective effect
 - 1.6.5.3 *Ex nunc* effect
 - 1.6.5.4 Postponement of temporal effect
 - 1.6.6 Influence on State organs

³¹ Comprises court fees, postage costs, advance of expenses and lawyers' fees.

³² For questions of constitutionality dependent on a specified interpretation, use 2.3.2.

- 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 enactments³³
 - 2.1.1.2 Foreign rules
 - 2.1.1.3 Community law
 - 2.1.1.4 International instruments
 - 2.1.1.4.1 United Nations Charter of 1945
 - 2.1.1.4.2 Universal Declaration of Human Rights of 1948
 - 2.1.1.4.3 European Convention on Human Rights of 1950³⁴
 - 2.1.1.4.4 Geneva Convention on the Status of Refugees of 1951
 - 2.1.1.4.5 European Social Charter of 1961
 - 2.1.1.4.6 International Covenant on Civil and Political Rights of 1966
 - 2.1.1.4.7 International Covenant on Economic, Social and Cultural Rights of 1966
 - 2.1.1.4.8 Vienna Convention on the Law of Treaties of 1969
 - 2.1.1.4.9 American Convention on Human Rights of 1969
 - 2.1.1.4.10 African Charter on Human and Peoples' Rights of 1981
 - 2.1.1.4.11 European Charter of Local Self-Government of 1985
 - 2.1.1.4.12 Convention on the Rights of the Child of 1989
 - 2.1.1.4.13 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
 - 2.2.1.4 European Convention on Human Rights and constitutions

³³ 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).

³⁴ Including its Protocols.

- 2.2.1.5 European Convention on Human Rights and non-constitutional domestic legal instruments
- 2.2.1.6 Community law and domestic law
 - 2.2.1.6.1 Primary Community legislation and constitutions
 - 2.2.1.6.2 Primary Community legislation and domestic non-constitutional legal instruments
 - 2.2.1.6.3 Secondary Community legislation and constitutions
 - 2.2.1.6.4 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 review
 - 2.3.1 Concept of manifest error in assessing evidence or exercising discretion
 - 2.3.2 Concept of constitutionality dependent on a specified interpretation³⁵
 - 2.3.3 Intention of the author of the 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 Direct democracy
 - 3.3.3 Pluralist democracy³⁶
- 3.4 Separation of powers
- 3.5 Social State³⁷
- 3.6 Federal State³⁸
- 3.7 Relations between the State and bodies of a religious or ideological nature³⁹
- 3.8 Territorial principles
 - 3.8.1 Indivisibility of the territory
- 3.9 Rule of law
- 3.10 Certainty of the law⁴⁰

³⁵ Presumption of constitutionality, double construction rule.

³⁶ Including the principle of a multi-party system.

³⁷ Includes the principle of social justice.

³⁸ See also 4.8.

³⁹ Separation of Church and State, State subsidisation and recognition of churches, secular nature etc.

⁴⁰ Including maintaining confidence and legitimate expectations.

- 3.11 Vested and/or acquired rights
- 3.12 Clarity and precision of legal provisions
- 3.13 Legality⁴¹
- 3.14 *Nullum crimen, nulla poena sine lege*⁴²
- 3.15 Publication of laws
 - 3.15.1 Ignorance of the law is no excuse
 - 3.15.2 Linguistic aspects
- 3.16 Proportionality
- 3.17 Weighing of interests
- 3.18 General interest⁴³
- 3.19 Margin of appreciation
- 3.20 Reasonableness
- 3.21 Equality⁴⁴
- 3.22 Prohibition of arbitrariness
- 3.23 Equity
- 3.24 Loyalty to the State⁴⁵
- 3.25 Market economy⁴⁶
- 3.26 Principles of Community law
 - 3.26.1 Fundamental principles of the Common Market
 - 3.26.2 Direct effect⁴⁷
 - 3.26.3 Genuine co-operation between the institutions and the member States

4 INSTITUTIONS

- 4.1 Constituent assembly or equivalent body⁴⁸
 - 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

⁴¹ Principle according to which sub-statutory acts must be based on and in conformity with the law.

⁴² Prohibition of punishment without proper legal base.

⁴³ Including compelling public interest.

⁴⁴ 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.

⁴⁵ Including questions of treason/high crimes.

⁴⁶ Including prohibition on monopolies.

⁴⁷ For the principle of primacy of Community law, see 2.2.1.6.

⁴⁸ Including the body responsible for revising or amending the Constitution.

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- 4.3 Languages
 - 4.3.1 Official language(s)
 - 4.3.2 National language(s)
 - 4.3.3 Regional language(s)
 - 4.3.4 Minority language(s)
 - 4.4 Head of State
 - 4.4.1 Powers
 - 4.4.1.1 Relations with legislative bodies⁴⁹
 - 4.4.1.2 Relations with the executive powers⁵⁰
 - 4.4.1.3 Relations with judicial bodies⁵¹
 - 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 Direct election
 - 4.4.2.4 Indirect election
 - 4.4.2.5 Hereditary succession
 - 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 successive terms
 - 4.4.4 Liability or responsibility
 - 4.4.4.1 Legal liability
 - 4.4.4.1.1 Immunities
 - 4.4.4.2 Political responsibility
 - 4.5 Legislative bodies
 - 4.5.1 Structure⁵²
 - 4.5.2 Powers⁵³
 - 4.5.2.1 Competences with respect to international agreements
 - 4.5.2.2 Powers of enquiry⁵⁴
 - 4.5.2.3 Delegation to another legislative body⁵⁵
 - 4.5.2.4 Negative incompetence⁵⁶
 - 4.5.3 Composition
 - 4.5.3.1 Election of members
 - 4.5.3.2 Appointment of members
 - 4.5.3.3 Term of office of the legislative body
 - 4.5.3.3.1 Duration
 - 4.5.3.4 Term of office of members
 - 4.5.3.4.1 Characteristics⁵⁷
 - 4.5.3.4.2 Duration

⁴⁹ For example presidential messages, requests for further debating of a law, right of legislative veto, dissolution.

⁵⁰ For example nomination of members of the government, chairing of Cabinet sessions, countersigning of laws.

⁵¹ For example the granting of pardons.

⁵² Bicameral, monocalameral, special competence of each assembly, etc.

⁵³ Including specialised powers of each legislative body and reserved powers of the legislature.

⁵⁴ In particular commissions of enquiry.

⁵⁵ For delegation of powers to an executive body, see keyword 4.6.3.2.

⁵⁶ Obligation on the legislative body to use the full scope of its powers.

⁵⁷ Representative/imperative mandates.

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- 4.5.3.4.3 End
 - 4.5.4 Organisation⁵⁸
 - 4.5.4.1 Rules of procedure
 - 4.5.4.2 President/Speaker
 - 4.5.4.3 Sessions⁵⁹
 - 4.5.4.4 Committees⁶⁰
 - 4.5.5 Finances⁶¹
 - 4.5.6 Law-making procedure⁶²
 - 4.5.6.1 Right to initiate legislation
 - 4.5.6.2 Quorum
 - 4.5.6.3 Majority required
 - 4.5.6.4 Right of amendment
 - 4.5.6.5 Relations between houses
 - 4.5.7 Relations with the executive bodies
 - 4.5.7.1 Questions to the government
 - 4.5.7.2 Questions of confidence
 - 4.5.7.3 Motion of censure
 - 4.5.8 Relations with judicial bodies
 - 4.5.9 Liability
 - 4.5.10 Political parties
 - 4.5.10.1 Creation
 - 4.5.10.2 Financing
 - 4.5.10.3 Role
 - 4.5.10.4 Prohibition
 - 4.5.11 Status of members of legislative bodies⁶³
 - 4.6 Executive bodies⁶⁴
 - 4.6.1 Hierarchy
 - 4.6.2 Powers
 - 4.6.3 Application of laws
 - 4.6.3.1 Autonomous rule-making powers⁶⁵
 - 4.6.3.2 Delegated rule-making powers
 - 4.6.4 Composition
 - 4.6.4.1 Appointment of members
 - 4.6.4.2 Election of members
 - 4.6.4.3 End of office of members
 - 4.6.4.4 Status of members of executive bodies
 - 4.6.5 Organisation
 - 4.6.6 Relations with judicial bodies
 - 4.6.7 Administrative decentralisation⁶⁶
 - 4.6.8 Sectoral decentralisation⁶⁷
 - 4.6.8.1 Universities

⁵⁸ Presidency, bureau, sections, committees etc.

⁵⁹ Including the convening, duration, publicity and agenda of sessions.

⁶⁰ Including their creation, composition and terms of reference.

⁶¹ State budgetary contribution, other sources etc.

⁶² For the publication of laws, see 3.15.

⁶³ For example incompatibilities arising during the term of office, parliamentary immunity, exemption from prosecution and others. For questions of eligibility see 4.9.5.

⁶⁴ For local authorities see 4.8.

⁶⁵ Derived directly from the constitution.

⁶⁶ See also 4.8.

⁶⁷ The vesting of administrative competence in public law bodies independent of public authorities, but controlled by them.

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- 4.6.9 The civil service⁶⁸
 - 4.6.9.1 Conditions of access
 - 4.6.9.2 Reasons for exclusion
 - 4.6.9.2.1 Lustration⁶⁹
 - 4.6.9.3 Remuneration
 - 4.6.9.4 Personal liability
 - 4.6.9.5 Trade union status
 - 4.6.10 Liability
 - 4.6.10.1 Legal liability
 - 4.6.10.1.1 Immunity
 - 4.6.10.1.2 Civil liability
 - 4.6.10.1.3 Criminal liability
 - 4.6.10.2 Political responsibility
 - 4.7 Judicial bodies⁷⁰
 - 4.7.1 Jurisdiction
 - 4.7.1.1 Exclusive jurisdiction
 - 4.7.1.2 Universal jurisdiction
 - 4.7.1.3 Conflicts of jurisdiction⁷¹
 - 4.7.2 Procedure
 - 4.7.3 Decisions
 - 4.7.4 Organisation
 - 4.7.4.1 Members
 - 4.7.4.1.1 Qualifications
 - 4.7.4.1.2 Appointment
 - 4.7.4.1.3 Election
 - 4.7.4.1.4 End of office
 - 4.7.4.1.5 Status
 - 4.7.4.1.5.1 Incompatibilities
 - 4.7.4.1.5.2 Discipline
 - 4.7.4.1.5.3 Irremovability
 - 4.7.4.2 Officers of the court
 - 4.7.4.3 Prosecutors / State counsel
 - 4.7.4.3.1 Appointment
 - 4.7.4.3.2 Election
 - 4.7.4.3.3 End of office
 - 4.7.4.3.4 Status
 - 4.7.4.4 Languages
 - 4.7.4.5 Registry
 - 4.7.4.6 Budget
 - 4.7.5 Supreme Judicial Council or equivalent body⁷²
 - 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 courts⁷³

⁶⁸ Civil servants, administrators etc.

⁶⁹ Practice aiming at removing from civil service persons formerly involved with a totalitarian regime.

⁷⁰ Other than the body delivering the decision summarised here.

⁷¹ Positive and negative conflicts.

⁷² For example, Judicial Service Commission, *Conseil supérieur de la magistrature*.

⁷³ Comprises the Court of Auditors in so far as it exercises judicial power.

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- 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
 - 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, regionalism and local self-governement
 - 4.8.1 Federal entities⁷⁴
 - 4.8.2 Regions and provinces
 - 4.8.3 Municipalities⁷⁵
 - 4.8.4 Basic principles
 - 4.8.4.1 Autonomy
 - 4.8.5 Definition of geographical boundaries
 - 4.8.6 Institutional aspects
 - 4.8.6.1 Deliberative assembly
 - 4.8.6.2 Executive
 - 4.8.6.3 Courts
 - 4.8.6.4 Administrative authorities
 - 4.8.7 Budgetary and financial aspects
 - 4.8.7.1 Finance
 - 4.8.7.2 Arrangements for distributing the financial resources of the State
 - 4.8.7.3 Budget
 - 4.8.7.4 Mutual support arrangements
 - 4.8.8 Distribution of powers
 - 4.8.8.1 Principles and methods
 - 4.8.8.2 Implementation
 - 4.8.8.2.1 Distribution *ratione materiae*
 - 4.8.8.2.2 Distribution *ratione loci*
 - 4.8.8.2.3 Distribution *ratione temporis*
 - 4.8.8.2.4 Distribution *ratione personae*
 - 4.8.8.3 Supervision
 - 4.8.8.4 Co-operation
 - 4.8.8.5 International relations
 - 4.8.8.5.1 Conclusion of treaties
 - 4.8.8.5.2 Participation in international organisations or their organs
 - 4.9 Elections and instruments of direct democracy⁷⁶
 - 4.9.1 Electoral Commission
 - 4.9.2 Referenda and other instruments of direct democracy

⁷⁴ See also 3.6.

⁷⁵ And other units of local self-government.

⁷⁶ See also keywords 5.3.39 and 5.2.1.4.

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- 4.9.3 Electoral system⁷⁷
 - 4.9.4 Constituencies
 - 4.9.5 Eligibility⁷⁸
 - 4.9.6 Representation of minorities
 - 4.9.7 Preliminary procedures
 - 4.9.7.1 Electoral rolls
 - 4.9.7.2 Voter registration card
 - 4.9.7.3 Candidacy
 - 4.9.7.4 Ballot papers⁷⁹
 - 4.9.8 Electoral campaign and campaign material⁸⁰
 - 4.9.8.1 Financing
 - 4.9.8.2 Campaign expenses
 - 4.9.8.3 Protection of party logos
 - 4.9.9 Voting procedures
 - 4.9.9.1 Polling stations
 - 4.9.9.2 Polling booths
 - 4.9.9.3 Voting⁸¹
 - 4.9.9.4 Identity checks on voters
 - 4.9.9.5 Record of persons having voted⁸²
 - 4.9.9.6 Casting of votes⁸³
 - 4.9.9.7 Method of voting⁸⁴
 - 4.9.9.8 Counting of votes
 - 4.9.9.9 Electoral reports
 - 4.9.9.10 Minimum participation rate required
 - 4.9.9.11 Announcement of results
 - 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 bodies⁸⁵
 - 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 Ombudsman⁸⁶
 - 4.12.1 Appointment
 - 4.12.2 Guarantees of independence

⁷⁷ Proportional, majority, preferential, single-member constituencies, etc.

⁷⁸ For aspects related to fundamental rights, see 5.3.39.2.

⁷⁹ E.g. Names of parties, order of presentation, logo, emblem or question in a referendum.

⁸⁰ Tracts, letters, press, radio and television, posters, nominations etc.

⁸¹ Impartiality of electoral authorities, incidents, disturbances.

⁸² E.g. signatures on electoral rolls, stamps, crossing out of names on list.

⁸³ E.g. in person, proxy vote, postal vote, electronic vote.

⁸⁴ E.g. *Panachage*, voting for whole list or part of list, blank votes.

⁸⁵ E.g. Auditor-General.

⁸⁶ Parliamentary Commissioner, Public Defender, Human Rights Commission etc.

- 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 Powers
- 4.12.4 Organisation
- 4.12.5 Relations with the Head of State
- 4.12.6 Relations with the legislature
- 4.12.7 Relations with the executive
- 4.12.8 Relations with auditing bodies⁸⁷
- 4.12.9 Relations with judicial bodies
- 4.12.10 Relations with federal or regional authorities
- 4.13 Independent administrative authorities
- 4.14 Activities and duties assigned to the State by the Constitution
- 4.15 Exercise of public functions by private bodies
- 4.16 Transfer of powers to international organisations
- 4.17 European Union
 - 4.17.1 Institutional structure
 - 4.17.1.1 European Parliament
 - 4.17.1.2 Council
 - 4.17.1.3 Commission
 - 4.17.1.4 Court of Justice of the European Communities⁸⁸
 - 4.17.2 Distribution of powers between Community and member States
 - 4.17.3 Distribution of powers between institutions of the Community
 - 4.17.4 Legislative procedure
- 4.18 State of emergency and emergency powers⁸⁹

5 FUNDAMENTAL RIGHTS⁹⁰

- 5.1 General questions
 - 5.1.1 Entitlement to rights
 - 5.1.1.1 Nationals
 - 5.1.1.1.1 Nationals living abroad
 - 5.1.1.2 Citizens of the European Union and non-citizens with similar status
 - 5.1.1.3 Foreigners
 - 5.1.1.3.1 Refugees and applicants for refugee status
 - 5.1.1.4 Natural persons
 - 5.1.1.4.1 Minors⁹¹
 - 5.1.1.4.2 Incapacitated
 - 5.1.1.4.3 Prisoners
 - 5.1.1.4.4 Military personnel
 - 5.1.1.5 Legal persons
 - 5.1.1.5.1 Private law

⁸⁷ E.g. Court of Auditors.

⁸⁸ Institutional aspects only: questions of procedure, jurisdiction, composition etc are dealt with under the keywords of Chapter 1.

⁸⁹ Including state of war, martial law, declared natural disasters etc; for human rights aspects, see also keyword 5.1.4.

⁹⁰ Positive and negative aspects.

⁹¹ For rights of the child, see 5.3.42.

- 5.1.1.5.2 Public law
- 5.1.2 Effects
 - 5.1.2.1 Vertical effects
 - 5.1.2.2 Horizontal effects⁹²
- 5.1.3 Limits and restrictions
- 5.1.4 Emergency situations⁹³
- 5.1.5 Right of resistance
- 5.2 Equality
 - 5.2.1 Scope of application
 - 5.2.1.1 Public burdens⁹⁴
 - 5.2.1.2 Employment
 - 5.2.1.2.1 In private law
 - 5.2.1.2.2 In public law
 - 5.2.1.3 Social security
 - 5.2.1.4 Elections
 - 5.2.2 Criteria of distinction
 - 5.2.2.1 Gender
 - 5.2.2.2 Race
 - 5.2.2.3 National or ethnic origin⁹⁵
 - 5.2.2.4 Citizenship
 - 5.2.2.5 Social origin
 - 5.2.2.6 Religion
 - 5.2.2.7 Age
 - 5.2.2.8 Physical or mental disability
 - 5.2.2.9 Political opinions or affiliation
 - 5.2.2.10 Language
 - 5.2.2.11 Sexual orientation
 - 5.2.2.12 Civil status⁹⁶
 - 5.2.3 Affirmative action
- 5.3 Civil and political rights
 - 5.3.1 Right to dignity
 - 5.3.2 Right to life
 - 5.3.3 Prohibition of torture and inhuman and degrading treatment
 - 5.3.4 Right to physical and psychological integrity
 - 5.3.4.1 Scientific and medical treatment and experiments
 - 5.3.5 Individual liberty⁹⁷
 - 5.3.5.1 Deprivation of liberty
 - 5.3.5.1.1 Arrest⁹⁸
 - 5.3.5.1.2 Non-penal measures
 - 5.3.5.1.3 Detention pending trial
 - 5.3.5.1.4 Conditional release
 - 5.3.5.2 Prohibition of forced or compulsory labour
 - 5.3.6 Freedom of movement⁹⁹
 - 5.3.7 Right to emigrate

⁹² The question of “Drittwirkung”.

⁹³ See also 4.18.

⁹⁴ Taxes and other duties towards the state.

⁹⁵ Here, the term “national” is used to designate ethnic origin.

⁹⁶ For example, discrimination between married and single persons.

⁹⁷ This keyword also covers “Personal liberty” It includes for example identity checking, personal search and administrative arrest.

⁹⁸ Detention by police.

⁹⁹ Including questions related to the granting of passports or other travel documents.

- 5.3.8 Right to a nationality
- 5.3.9 Right of residence¹⁰⁰
- 5.3.10 Rights of domicile and establishment
- 5.3.11 Right of asylum
- 5.3.12 Security of the person
- 5.3.13 Procedural safeguards and fair trial
 - 5.3.13.1 Scope
 - 5.3.13.1.1 Constitutional proceedings
 - 5.3.13.1.2 Non-litigious administrative procedure
 - 5.3.13.2 Access to courts¹⁰¹
 - 5.3.13.2.1 *Habeas corpus*
 - 5.3.13.3 Double degree of jurisdiction¹⁰²
 - 5.3.13.4 Suspensive effect of appeal
 - 5.3.13.5 Right to a hearing
 - 5.3.13.6 Right to participate in the administration of justice¹⁰³
 - 5.3.13.7 Right of access to the file
 - 5.3.13.8 Public hearings
 - 5.3.13.9 Trial by jury
 - 5.3.13.10 Public judgments
 - 5.3.13.11 Right to be informed about the decision
 - 5.3.13.12 Trial within reasonable time
 - 5.3.13.13 Independence
 - 5.3.13.14 Impartiality
 - 5.3.13.15 Prohibition of *reformatio in peius*
 - 5.3.13.16 Rules of evidence
 - 5.3.13.17 Reasoning
 - 5.3.13.18 Rights of the defence
 - 5.3.13.19 Equality of arms
 - 5.3.13.20 Adversarial principle
 - 5.3.13.21 Languages
 - 5.3.13.22 Presumption of innocence
 - 5.3.13.23 Right not to incriminate oneself
 - 5.3.13.24 Right not to testify against spouse/close family
 - 5.3.13.25 Right to be informed about the reasons of detention
 - 5.3.13.26 Right to be informed about the charges
 - 5.3.13.27 Right to have adequate time and facilities for the preparation of the case
 - 5.3.13.28 Right to counsel
 - 5.3.13.29 Right to examine witnesses
- 5.3.14 *Ne bis in idem*
- 5.3.15 Rights of victims of crime
- 5.3.16 Right to compensation for damage caused by the State
- 5.3.17 Freedom of conscience¹⁰⁴
- 5.3.18 Freedom of opinion
- 5.3.19 Freedom of worship
- 5.3.20 Freedom of expression¹⁰⁵
- 5.3.21 Freedom of the written press

¹⁰⁰ May include questions of expulsion and extradition.

¹⁰¹ 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.

¹⁰² This keyword covers the right of appeal to a court.

¹⁰³ Including the right to be present at hearing.

¹⁰⁴ Covers freedom of religion as an individual right. Its collective aspects are included under the keyword "Freedom of worship" below.

¹⁰⁵ This keyword also includes the right to freely communicate information.

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- 5.3.22 Rights in respect of the audiovisual media and other means of mass communication
 - 5.3.23 Right to information
 - 5.3.24 Right to administrative transparency
 - 5.3.25 Right of access to administrative documents
 - 5.3.26 National service¹⁰⁶
 - 5.3.27 Freedom of association
 - 5.3.28 Freedom of assembly
 - 5.3.29 Right to participate in political activity
 - 5.3.30 Right to respect for one's honour and reputation
 - 5.3.31 Right to private life
 - 5.3.31.1 Protection of personal data
 - 5.3.32 Right to family life¹⁰⁷
 - 5.3.32.1 Descent
 - 5.3.32.2 Succession
 - 5.3.33 Inviolability of the home
 - 5.3.34 Inviolability of communications
 - 5.3.34.1 Correspondence
 - 5.3.34.2 Telephonic communications
 - 5.3.34.3 Electronic communications
 - 5.3.35 Right of petition
 - 5.3.36 Non-retrospective effect of law
 - 5.3.36.1 Criminal law
 - 5.3.36.2 Civil law
 - 5.3.36.3 Social law
 - 5.3.36.4 Taxation law
 - 5.3.37 Right to property¹⁰⁸
 - 5.3.37.1 Expropriation
 - 5.3.37.2 Nationalisation
 - 5.3.37.3 Other limitations
 - 5.3.37.4 Privatisation
 - 5.3.38 Linguistic freedom
 - 5.3.39 Electoral rights
 - 5.3.39.1 Right to vote
 - 5.3.39.2 Right to stand for election¹⁰⁹
 - 5.3.39.3 Freedom of voting
 - 5.3.39.4 Secret ballot
 - 5.3.40 Rights in respect of taxation
 - 5.3.41 Right to self fulfilment
 - 5.3.42 Rights of the child
 - 5.3.43 Protection of minorities and persons belonging to minorities
 - 5.4 Economic, social and cultural rights
 - 5.4.1 Freedom to teach
 - 5.4.2 Right to education
 - 5.4.3 Right to work
 - 5.4.4 Freedom to choose one's profession¹¹⁰
 - 5.4.5 Freedom to work for remuneration
 - 5.4.6 Commercial and industrial freedom
 - 5.4.7 Freedom of contract

¹⁰⁶ Militia, conscientious objection etc.

¹⁰⁷ Aspects of the use of names are included either here or under "Right to private life".

¹⁰⁸ Including compensation issues.

¹⁰⁹ For institutional aspects, see 4.9.5.

¹¹⁰ This keyword also covers "Freedom of work".

- 5.4.8 Right of access to the public service
- 5.4.9 Right to strike
- 5.4.10 Freedom of trade unions¹¹¹
- 5.4.11 Right to intellectual property
- 5.4.12 Right to housing
- 5.4.13 Right to social security
- 5.4.14 Right to unemployment benefits
- 5.4.15 Right to a pension
- 5.4.16 Right to just and decent working conditions
- 5.4.17 Right to a sufficient standard of living
- 5.4.18 Right to health
- 5.4.19 Right to culture
- 5.4.20 Scientific freedom
- 5.4.21 Artistic freedom
- 5.5 Collective rights
 - 5.5.1 Right to the environment
 - 5.5.2 Right to development
 - 5.5.3 Right to peace
 - 5.5.4 Right to self-determination

¹¹¹ Includes rights of the individual with respect to trade unions, rights of trade unions and the right to conclude collective labour agreements.