



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 21 May 2007

CDL-JU (2007)010*
Engl/Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**SECRETARIAT PROPOSALS FOR
VERSION 19
OF THE SYSTEMATIC THESAURUS**

**This document has been classified restricted at the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

*This document will not be distributed at the meeting. Please bring this copy.
www.venice.coe.int*

1 CONSTITUTIONAL JUSTICE¹

1.1 Constitutional jurisdiction²

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 Court³

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 Necessary qualifications⁴

1.1.2.2 Number of members

1.1.2.3 Appointing authority

1.1.2.4 Appointment of members⁵

1.1.2.5 Appointment of the President⁶

1.1.2.6 Functions of the President / Vice-President

1.1.2.7 Subdivision into chambers or sections

1.1.2.8 Relative position of members⁷

1.1.2.9 Persons responsible for preparing cases for hearing⁸

1.1.2.10 Staff⁹

1.1.2.10.1 Functions of the Secretary General / Registrar

1.1.2.10.2 Legal Advisers

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 Non-disciplinary suspension of functions

1.1.3.8 End of office

1.1.3.9 Members having a particular status¹⁰

1.1.3.10 Status of staff¹¹

1.1.4 Relations with other institutions

¹ This chapter – as the Systematic Thesaurus in general - should be used sparingly, as the keywords therein should only be used if a relevant procedural question is discussed by the Court. This chapter is therefore not used to establish statistical data; rather, the Bulletin reader or user of the CODICES database should only look for decisions in this chapter, ~~when~~ the subject of **which is also** the keyword ~~is an issue in the case~~.

² Constitutional Court or equivalent body (constitutional tribunal or council, supreme court, etc).

³ For example, rules of procedure.

⁴ For example, age, education, experience, seniority, moral character, citizenship.

⁵ Including the conditions and manner of such appointment (election, nomination, etc.).

⁶ Including the conditions and manner of such appointment (election, nomination, etc.).

⁷ Vice-presidents, presidents of chambers or of sections, etc.

⁸ For example, State Counsel, prosecutors, etc.

⁹ (Deputy) Registrars, Secretaries General, legal advisers, assistants, researchers, etc.

¹⁰ For example, assessors, office members.

¹¹ (Deputy) Registrars, Secretaries General, legal advisers, assistants, researchers, etc.

-
- 1.1.4.1 Head of State¹²
 - 1.1.4.2 Legislative bodies
 - 1.1.4.3 Executive bodies
 - 1.1.4.4 Courts
 - 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 federated or 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 court¹³
 - 1.2.4 Initiation *ex officio* by the body of constitutional jurisdiction
 - 1.2.5 Obligatory review¹⁴
 - 1.3 Jurisdiction
 - 1.3.1 Scope of review
 - 1.3.1.1 Extension¹⁵
 - 1.3.2 Type of review
 - 1.3.2.1 Preliminary / *ex post facto* review
 - 1.3.2.2 Abstract / 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 authorities¹⁶
 - 1.3.4.3 Distribution of powers between central government and federal or regional entities¹⁷
 - 1.3.4.4 Powers of local authorities¹⁸
 - 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 consultations¹⁹~~

¹² Including questions on the interim exercise of the functions of the Head of State.

¹³ Referrals of preliminary questions in particular.

¹⁴ Enactment required by law to be reviewed by the Court.

¹⁵ Review *ultra petita*.

¹⁶ Horizontal distribution of powers.

¹⁷ Vertical distribution of powers, particularly in respect of states of a federal or regionalised nature.

¹⁸ Decentralised authorities (municipalities, provinces, etc.).

¹⁹ This keyword concerns questions of jurisdiction relating to the procedure and results of referenda and other consultations. For questions other than jurisdiction, see 4.9.2.1.

- 1.3.4.6 ~~Admissibility~~ **Litigation in respect of referendums** and other consultations²⁰
 - 1.3.4.6.1 ~~Admissibility~~ **Referenda on the repeal of legislation**
 - 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 enactments²¹
 - 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 laws²²
 - 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 Constitution²³
 - 1.3.5.4 Quasi-constitutional legislation²⁴
 - 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 Decrees of the Head of State
 - 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 decentralisation²⁵
 - 1.3.5.11.2 Sectoral decentralisation²⁶
 - 1.3.5.12 Court decisions
 - 1.3.5.13 Administrative acts
 - 1.3.5.14 Government acts²⁷
 - 1.3.5.15 Failure to act or to pass legislation²⁸
- 1.4 Procedure
- 1.4.1 General characteristics²⁹
 - 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

²⁰ This keyword concerns decisions preceding the referendum including its admissibility.

²¹ 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).

²² As understood in private international law.

²³ Including constitutional laws.

²⁴ For example, organic laws.

²⁵ Local authorities, municipalities, provinces, departments, etc.

²⁶ Or: functional decentralisation (public bodies exercising delegated powers).

²⁷ Political questions.

²⁸ Unconstitutionality by omission.

²⁹ Including language issues relating to procedure, deliberations, decisions, etc.

-
- 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 act³⁰
 - 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 parties³¹
 - 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 that preparation is complete
 - 1.4.9 Parties
 - 1.4.9.1 *Locus standi*³²
 - 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
 - 1.4.9.4 Persons or entities authorised to intervene in proceedings
 - 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 proceedings³³
 - 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
 - 1.4.10.7 Request for a preliminary ruling by the Court of Justice of the European Communities
 - 1.4.11 Hearing
 - 1.4.11.1 Composition of the bench
 - 1.4.11.2 Procedure

³⁰ For the withdrawal of proceedings, see also 1.4.10.4.

³¹ Pleadings, final submissions, notes etc.

³² May be used in combination with Chapter 1.2. Types of claim.

³³ For the withdrawal of the originating document, see also 1.4.5.

- 1.4.11.3 In public / in camera
- 1.4.11.4 Report
- 1.4.11.5 Opinion
- 1.4.11.6 Address by the parties
- 1.4.12 Special procedures
- 1.4.13 Re-opening of hearing
- 1.4.14 Costs³⁴
 - 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 unconstitutionality³⁵
 - 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 Time limit
 - 1.5.6.3 Publication
 - 1.5.6.3.1 Publication in the official journal/gazette
 - 1.5.6.3.2 Publication in an official collection
 - 1.5.6.3.3 Private publication
 - 1.5.6.4 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 Entry into force of decision
 - 1.6.5.2 Retrospective effect (*ex tunc*)
 - 1.6.5.3 Limitation on retrospective effect
 - 1.6.5.4 *Ex nunc* effect
 - 1.6.5.5 Postponement of temporal effect
- 1.6.6 Execution

³⁴ Comprises court fees, postage costs, advance of expenses and lawyers' fees.

³⁵ For questions of constitutionality dependent on a specified interpretation, use 2.3.2.

- 1.6.6.1 Body responsible for supervising execution
- 1.6.6.2 Penalty payment
- 1.6.7 Influence on State organs
- 1.6.8 Influence on everyday life
- 1.6.9 Consequences for other cases
 - 1.6.9.1 Ongoing cases
 - 1.6.9.2 Decided cases

2 SOURCES

2.1 Categories³⁶

2.1.1 Written rules

2.1.1.1 National rules

2.1.1.1.1 Constitution

2.1.1.1.2 Quasi-constitutional enactments³⁷

2.1.1.2 National rules from other countries

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 Geneva Conventions of 1949

2.1.1.4.4 European Convention on Human Rights of 1950³⁸

2.1.1.4.5 Geneva Convention on the Status of Refugees of 1951

2.1.1.4.6 European Social Charter of 1961

2.1.1.4.7 International Convention on the Elimination of all Forms of Racial Discrimination of 1965

2.1.1.4.8 International Covenant on Civil and Political Rights of 1966

2.1.1.4.9 International Covenant on Economic, Social and Cultural Rights of 1966

2.1.1.4.10 Vienna Convention on the Law of Treaties of 1969

2.1.1.4.11 American Convention on Human Rights of 1969

2.1.1.4.12 Convention on the Elimination of all Forms of Discrimination against Women of 1979

2.1.1.4.13 African Charter on Human and Peoples' Rights of 1981

2.1.1.4.14 European Charter of Local Self-Government of 1985

2.1.1.4.15 Convention on the Rights of the Child of 1989

2.1.1.4.16 Framework Convention for the Protection of National Minorities of 1995

2.1.1.4.17 Statute of the International Criminal Court of 1998

2.1.1.4.18 Charter of Fundamental Rights of the European Union of 2000

2.1.1.4.19 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

³⁶ Only for issues concerning applicability and not simple application.

³⁷ 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.).

³⁸ Including its Protocols.

- 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
 - 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 interpretation³⁹
 - 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 democracy⁴⁰
- 3.4 Separation of powers
- 3.5 Social State⁴¹
- 3.6 Structure of the State⁴²
 - 3.6.1 Unitary State
 - 3.6.2 Regional State
 - 3.6.3 Federal State

³⁹ Presumption of constitutionality, double construction rule.

⁴⁰ Including the principle of a multi-party system.

⁴¹ Includes the principle of social justice.

⁴² See also 4.8.

-
- 3.7 Relations between the State and bodies of a religious or ideological nature⁴³
 - 3.8 Territorial principles
 - 3.8.1 Indivisibility of the territory
 - 3.9 Rule of law
 - 3.10 Certainty of the law⁴⁴
 - 3.11 Vested and/or acquired rights
 - 3.12 Clarity and precision of legal provisions
 - 3.13 Legality⁴⁵
 - 3.14 *Nullum crimen, nulla poena sine lege*⁴⁶
 - 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 interest⁴⁷
 - 3.19 Margin of appreciation
 - 3.20 Reasonableness
 - 3.21 Equality⁴⁸
 - 3.22 Prohibition of arbitrariness
 - 3.23 Equity
 - 3.24 Loyalty to the State⁴⁹
 - 3.25 Market economy⁵⁰
 - 3.26 Principles of Community law
 - 3.26.1 Fundamental principles of the Common Market
 - 3.26.2 Direct effect⁵¹
 - 3.26.3 Genuine co-operation between the institutions and the member states

4 INSTITUTIONS

- 4.1 Constituent assembly or equivalent body⁵²
 - 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

⁴³ Separation of Church and State, State subsidisation and recognition of churches, secular nature, etc.

⁴⁴ Including maintaining confidence and legitimate expectations.

⁴⁵ Principle according to which sub-statutory acts must be based on and in conformity with the law.

⁴⁶ Prohibition of punishment without proper legal base.

⁴⁷ Including compelling public interest.

⁴⁸ Only where not applied as a fundamental right (e.g. between state authorities, municipalities, etc.).

⁴⁹ Including questions of treason/high crimes.

⁵⁰ Including prohibition on monopolies.

⁵¹ For the principle of primacy of Community law, see 2.2.1.6.

⁵² Including the body responsible for revising or amending the Constitution.

-
- 4.2.4 National emblem
 - 4.2.5 Motto
 - 4.2.6 Capital city
 - 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 bodies⁵³
 - 4.4.1.2 Relations with the executive powers⁵⁴
 - 4.4.1.3 Relations with judicial bodies⁵⁵
 - 4.4.1.4 Promulgation of laws
 - 4.4.1.5 International relations
 - 4.4.1.6 Powers with respect to the armed forces
 - 4.4.1.7 Mediating powers
 - 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 Status
 - 4.4.4.1 Liability
 - 4.4.4.1.1 Legal liability
 - 4.4.4.1.1.1 Immunity
 - 4.4.4.1.1.2 Civil liability
 - 4.4.4.1.1.3 Criminal liability
 - 4.4.4.1.2 Political responsibility
 - 4.5 Legislative bodies⁵⁶
 - 4.5.1 Structure⁵⁷
 - 4.5.2 Powers⁵⁸
 - 4.5.2.1 Competences with respect to international agreements
 - 4.5.2.2 Powers of enquiry⁵⁹
 - 4.5.2.3 Delegation to another legislative body⁶⁰
 - 4.5.2.4 Negative incompetence⁶¹
 - 4.5.3 Composition
 - 4.5.3.1 Election of members
 - 4.5.3.2 Appointment of members

⁵³ For example, presidential messages, requests for further debating of a law, right of legislative veto, dissolution.

⁵⁴ For example, nomination of members of the government, chairing of Cabinet sessions, countersigning.

⁵⁵ For example, the granting of pardons.

⁵⁶ For regional and local authorities, see chapter 4.8.

⁵⁷ Bicameral, monocameral, special competence of each assembly, etc.

⁵⁸ Including specialised powers of each legislative body and reserved powers of the legislature.

⁵⁹ In particular, commissions of enquiry.

⁶⁰ For delegation of powers to an executive body, see keyword 4.6.3.2.

⁶¹ Obligation on the legislative body to use the full scope of its powers.

-
- 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 Characteristics⁶²
 - 4.5.3.4.2 Duration
 - 4.5.3.4.3 End
 - 4.5.4 Organisation⁶³
 - 4.5.4.1 Rules of procedure
 - 4.5.4.2 President/Speaker
 - 4.5.4.3 Sessions⁶⁴
 - 4.5.4.4 Committees⁶⁵
 - 4.5.5 Finances⁶⁶
 - 4.5.6 Law-making procedure⁶⁷
 - 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 bodies⁶⁸
 - 4.6 Executive bodies⁶⁹
 - 4.6.1 Hierarchy
 - 4.6.2 Powers
 - 4.6.3 Application of laws
 - 4.6.3.1 Autonomous rule-making powers⁷⁰
 - 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 decentralisation⁷¹
 - 4.6.8 Sectoral decentralisation⁷²

⁶² Representative/imperative mandates.

⁶³ Presidency, bureau, sections, committees, etc.

⁶⁴ Including the convening, duration, publicity and agenda of sessions.

⁶⁵ Including their creation, composition and terms of reference.

⁶⁶ State budgetary contribution, other sources, etc.

⁶⁷ For the publication of laws, see 3.15.

⁶⁸ For example, incompatibilities arising during the term of office, parliamentary immunity, exemption from prosecution and others. For questions of eligibility, see 4.9.5.

⁶⁹ For local authorities, see 4.8.

⁷⁰ Derived directly from the constitution.

⁷¹ See also 4.8.

-
- 4.6.8.1 Universities
 - 4.6.9 The civil service⁷³
 - 4.6.9.1 Conditions of access
 - 4.6.9.2 Reasons for exclusion
 - 4.6.9.2.1 Lustration⁷⁴
 - 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 bodies⁷⁵
 - 4.7.1 Jurisdiction
 - 4.7.1.1 Exclusive jurisdiction
 - 4.7.1.2 Universal jurisdiction
 - 4.7.1.3 Conflicts of jurisdiction⁷⁶
 - 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 Term of office
 - 4.7.4.1.5 End of office
 - 4.7.4.1.6 Status
 - 4.7.4.1.6.1 Incompatibilities
 - 4.7.4.1.6.2 Discipline
 - 4.7.4.1.6.3 Irremovability
 - 4.7.4.2 Officers of the court
 - 4.7.4.3 Prosecutors / State counsel⁷⁷
 - 4.7.4.3.1 Powers
 - 4.7.4.3.2 Appointment
 - 4.7.4.3.3 Election
 - 4.7.4.3.4 Term of office
 - 4.7.4.3.5 End of office
 - 4.7.4.3.6 Status
 - 4.7.4.4 Languages
 - 4.7.4.5 Registry
 - 4.7.4.6 Budget
 - 4.7.5 Supreme Judicial Council or equivalent body⁷⁸
 - 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

⁷² The vesting of administrative competence in public law bodies having their own independent organisational structure, independent of public authorities, but controlled by them. For other administrative bodies, see also 4.6.7 and 4.13.

⁷³ Civil servants, administrators, etc.

⁷⁴ Practice aiming at removing from civil service persons formerly involved with a totalitarian regime.

⁷⁵ Other than the body delivering the decision summarised here.

⁷⁶ Positive and negative conflicts.

⁷⁷ Notwithstanding the question to which to branch of state power the prosecutor belongs.

⁷⁸ For example, Judicial Service Commission, *Conseil supérieur de la magistrature*.

- 4.7.8.2 Criminal courts
- 4.7.9 Administrative courts
- 4.7.10 Financial courts⁷⁹
- 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-government
 - 4.8.1 Federal entities⁸⁰
 - 4.8.2 Regions and provinces
 - 4.8.3 Municipalities⁸¹
 - 4.8.4 Basic principles
 - 4.8.4.1 Autonomy
 - 4.8.4.2 Subsidiarity
 - 4.8.5 Definition of geographical boundaries
 - 4.8.6 Institutional aspects
 - 4.8.6.1 Deliberative assembly
 - 4.8.6.1.1 Status of members
 - 4.8.6.2 Executive
 - 4.8.6.3 Courts
 - 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 democracy⁸²

⁷⁹ Comprises the Court of Auditors in so far as it exercises judicial power.

⁸⁰ See also 3.6.

⁸¹ And other units of local self-government.

-
- 4.9.1 **Competent body for the organisation and control of voting** ~~Electoral Commission~~⁸³
 - 4.9.2 Referenda and other instruments of direct democracy
 - 4.9.2.1 Admissibility⁸⁴
 - 4.9.2.2 Effects**
 - 4.9.3 Electoral system⁸⁵
 - 4.9.3.1 Method of voting**
 - 4.9.4 Constituencies
 - 4.9.5 ~~Eligibility~~⁸⁶ - **[should always be indexed under 5.3.41.2]**
 - 4.9.6 Representation of minorities
 - 4.9.7 Preliminary procedures
 - 4.9.7.1 Electoral rolls
 - 4.9.7.2 ~~Voter registration card~~ **[too detailed]**
 - 4.9.7.3 Registration of parties and candidates⁸⁷
 - 4.9.7.4 Ballot papers⁸⁸
 - 4.9.8 Electoral campaign and campaign material⁸⁹
 - 4.9.8.1 Financing
 - 4.9.8.2 Campaign expenses
 - 4.9.8.3 ~~Protection of party logos~~ **[too detailed]**
 - 4.9.9 Voting procedures
 - 4.9.9.1 Polling stations
 - 4.9.9.2 Polling booths
 - 4.9.9.3 Voting⁹⁰
 - 4.9.9.4 Identity checks on voters
 - 4.9.9.5 Record of persons having voted⁹¹
 - 4.9.9.6 Casting of votes⁹²
 - 4.9.10 Minimum participation rate required**
 - 4.9.11 Activities after the vote [add footnote: For appeals regarding electoral rights see 5.3.4.1]**
 - ~~4.9.9.7 Method of voting~~⁹³
 - 4.9.11.1 Counting of votes**
 - 4.9.11.2 Electoral reports**
 - ~~4.9.9.8 Minimum participation rate required~~
 - 4.9.11.3 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 bodies⁹⁴
 - 4.10.7 Taxation
 - 4.10.7.1 Principles
 - 4.10.8 State assets
-

⁸² See also keywords 5.3.41 and 5.2.1.4.

⁸³ Organs of control and supervision.

⁸⁴ For questions of jurisdiction, see keyword 1.3.4.6.

⁸⁵ Proportional, majority, preferential, single-member constituencies, etc.

⁸⁶ For aspects related to fundamental rights, see 5.3.41.2.

⁸⁷ For the creation of political parties, see 4.5.10.1.

⁸⁸ For example, names of parties, order of presentation, logo, emblem or question in a referendum.

⁸⁹ Tracts, letters, press, radio and television, posters, nominations, etc.

⁹⁰ Impartiality of electoral authorities, incidents, disturbances.

⁹¹ For example, signatures on electoral rolls, stamps, crossing out of names on list.

⁹² For example, in person, proxy vote, postal vote, electronic vote.

⁹³ E.g. *Panachage*, voting for whole list or part of list, blank votes.

⁹⁴ For example, Auditor-General.

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 Ombudsman⁹⁵
 - 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 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 bodies⁹⁶
 - 4.12.9 Relations with judicial bodies
 - 4.12.10 Relations with federal or regional authorities
- 4.13 Independent administrative authorities⁹⁷
- 4.14 Activities and duties assigned to the State by the Constitution⁹⁸
- 4.15 Exercise of public functions by private bodies
- 4.16 International relations
 - 4.16.1 Transfer of powers to international institutions
- 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 Communities⁹⁹
 - 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 powers¹⁰⁰

5 FUNDAMENTAL RIGHTS ¹⁰¹
--

- 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

⁹⁵ Parliamentary Commissioner, Public Defender, Human Rights Commission, etc.

⁹⁶ For example, Court of Auditors.

⁹⁷ The vesting of administrative competence in public law bodies situated outside the traditional administrative hierarchy. See also 4.6.8.

⁹⁸ *Staatszielbestimmungen*.

⁹⁹ Institutional aspects only: questions of procedure, jurisdiction, composition etc are dealt with under the keywords of Chapter 1.

¹⁰⁰ Including state of war, martial law, declared natural disasters, etc.; for human rights aspects, see also keyword 5.1.4.1.

¹⁰¹ Positive and negative aspects.

- 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 Minors¹⁰²
 - 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
 - 5.1.1.5.2 Public law
- 5.1.2 Horizontal effects
- 5.1.3 Positive obligation of the state
- 5.1.4 Limits and restrictions¹⁰³
 - 5.1.4.1 Non-derogable rights
 - 5.1.4.2 General/special clause of limitation
 - 5.1.4.3 Subsequent review of limitation
- 5.1.5 Emergency situations¹⁰⁴
- 5.2 Equality
 - 5.2.1 Scope of application
 - 5.2.1.1 Public burdens¹⁰⁵
 - 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 [**add footnote: Universal and equal suffrage**]
 - 5.2.2 Criteria of distinction
 - 5.2.2.1 Gender
 - 5.2.2.2 Race
 - 5.2.2.3 Ethnic origin
 - 5.2.2.4 Citizenship or nationality¹⁰⁶
 - 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 status¹⁰⁷
 - 5.2.2.13 Differentiation *ratione temporis*
 - 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 liberty¹⁰⁸

¹⁰² For rights of the child, see 5.3.44.

¹⁰³ The criteria of the limitation of human rights (legality, legitimate purpose/general interest, proportionality) are indexed in chapter 3.

¹⁰⁴ Includes questions of the suspension of rights. See also 4.18.

¹⁰⁵ Taxes and other duties towards the state.

¹⁰⁶ According to the European Convention on Nationality of 1997, ETS no. 166, “‘nationality’ means the legal bond between a person and a state and does not indicate the person’s ethnic origin” (Article 2) and “... with regard to the effects of the Convention, the terms ‘nationality’ and ‘citizenship’ are synonymous” (paragraph 23, Explanatory Memorandum).

¹⁰⁷ For example, discrimination between married and single persons.

- 5.3.5.1 Deprivation of liberty
 - 5.3.5.1.1 Arrest¹⁰⁹
 - 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 movement¹¹⁰
- 5.3.7 Right to emigrate
- 5.3.8 Right to citizenship or nationality
- 5.3.9 Right of residence¹¹¹
- 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, rights of the defence and fair trial
 - 5.3.13.1 Scope
 - 5.3.13.1.1 Constitutional proceedings
 - 5.3.13.1.2 Civil proceedings
 - 5.3.13.1.3 Criminal proceedings
 - 5.3.13.1.4 Litigious administrative proceedings
 - 5.3.13.1.5 Non-litigious administrative proceedings
 - 5.3.13.2 Effective remedy
 - 5.3.13.3 Access to courts¹¹²
 - 5.3.13.3.1 *Habeas corpus*
 - 5.3.13.4 Double degree of jurisdiction¹¹³
 - 5.3.13.5 Suspensive effect of appeal
 - 5.3.13.6 Right to a hearing
 - 5.3.13.7 Right to participate in the administration of justice¹¹⁴
 - 5.3.13.8 Right of access to the file
 - 5.3.13.9 Public hearings
 - 5.3.13.10 Trial by jury
 - 5.3.13.11 Public judgments
 - 5.3.13.12 Right to be informed about the decision
 - 5.3.13.13 Trial/decision within reasonable time
 - 5.3.13.14 Independence¹¹⁵
 - 5.3.13.15 Impartiality
 - 5.3.13.16 Prohibition of *reformatio in peius*
 - 5.3.13.17 Rules of evidence
 - 5.3.13.18 Reasoning
 - 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 to remain silent
 - 5.3.13.23.1 Right not to incriminate oneself
 - 5.3.13.23.2 Right not to testify against spouse/close family
 - 5.3.13.24 Right to be informed about the reasons of detention
 - 5.3.13.25 Right to be informed about the charges

¹⁰⁸ This keyword also covers “Personal liberty”. It includes for example identity checking, personal search and administrative arrest.

¹⁰⁹ Detention by police.

¹¹⁰ Including questions related to the granting of passports or other travel documents.

¹¹¹ May include questions of expulsion and extradition.

¹¹² 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.

¹¹³ This keyword covers the right of appeal to a court.

¹¹⁴ Including the right to be present at hearing.

¹¹⁵ Including challenging of a judge.

- 5.3.13.26 Right to have adequate time and facilities for the preparation of the case
- 5.3.13.27 Right to counsel
 - 5.3.13.27.1 Right to paid legal assistance
- 5.3.13.28 Right to examine witnesses
- 5.3.14 *Ne bis in idem*
- 5.3.15 Rights of victims of crime
- 5.3.16 Principle of the application of the more lenient law
- 5.3.17 Right to compensation for damage caused by the State
- 5.3.18 Freedom of conscience¹¹⁶
- 5.3.19 Freedom of opinion
- 5.3.20 Freedom of worship
- 5.3.21 Freedom of expression¹¹⁷
- 5.3.22 Freedom of the written press
- 5.3.23 Rights in respect of the audiovisual media and other means of mass communication
- 5.3.24 Right to information
- 5.3.25 Right to administrative transparency
 - 5.3.25.1 Right of access to administrative documents
- 5.3.26 National service¹¹⁸
- 5.3.27 Freedom of association
- 5.3.28 Freedom of assembly
- 5.3.29 Right to participate in public affairs
 - 5.3.29.1 Right to participate in political activity
- 5.3.30 Right of resistance
- 5.3.31 Right to respect for one's honour and reputation
- 5.3.32 Right to private life
 - 5.3.32.1 Protection of personal data
- 5.3.33 Right to family life¹¹⁹
 - 5.3.33.1 Descent
 - 5.3.33.2 Succession
- 5.3.34 Right to marriage
- 5.3.35 Inviolability of the home
- 5.3.36 Inviolability of communications
 - 5.3.36.1 Correspondence
 - 5.3.36.2 Telephonic communications
 - 5.3.36.3 Electronic communications
- 5.3.37 Right of petition
- 5.3.38 Non-retrospective effect of law
 - 5.3.38.1 Criminal law
 - 5.3.38.2 Civil law
 - 5.3.38.3 Social law
 - 5.3.38.4 Taxation law
- 5.3.39 Right to property¹²⁰
 - 5.3.39.1 Expropriation
 - 5.3.39.2 Nationalisation
 - 5.3.39.3 Other limitations
 - 5.3.39.4 Privatisation
- 5.3.40 Linguistic freedom
- 5.3.41 Electoral rights
 - 5.3.41.1 Right to vote
 - 5.3.41.2 Right to stand for election¹²¹

¹¹⁶ Covers freedom of religion as an individual right. Its collective aspects are included under the keyword "Freedom of worship" below.

¹¹⁷ This keyword also includes the right to freely communicate information.

¹¹⁸ Militia, conscientious objection, etc.

¹¹⁹ Aspects of the use of names are included either here or under "Right to private life".

¹²⁰ Including compensation issues.

-
- 5.3.41.3 Freedom of voting
 - 5.3.41.3.1 Freedom of the voter to form opinion**
 - 5.3.41.3.2 Freedom of the voter to express opinion**
 - 5.3.41.4 Secret ballot
 - 5.3.41.5 Direct ballot**
 - 5.3.41.6 Frequency and regularity of elections**
 - 5.3.42 Rights in respect of taxation
 - 5.3.43 Right to self fulfilment
 - 5.3.44 Rights of the child
 - 5.3.45 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 profession¹²²
 - 5.4.5 Freedom to work for remuneration
 - 5.4.6 Commercial and industrial freedom
 - 5.4.7 Consumer protection
 - 5.4.8 Freedom of contract
 - 5.4.9 Right of access to the public service
 - 5.4.10 Right to strike
 - 5.4.11 Freedom of trade unions¹²³
 - 5.4.12 Right to intellectual property
 - 5.4.13 Right to housing
 - 5.4.14 Right to social security
 - 5.4.15 Right to unemployment benefits
 - 5.4.16 Right to a pension
 - 5.4.17 Right to just and decent working conditions
 - 5.4.18 Right to a sufficient standard of living
 - 5.4.19 Right to health
 - 5.4.20 Right to culture
 - 5.4.21 Scientific freedom
 - 5.4.22 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
 - 5.5.5 Rights of aboriginal peoples, ancestral rights

¹²¹ For institutional aspects, see 4.9.5.

¹²² This keyword also covers "Freedom of work".

¹²³ Includes rights of the individual with respect to trade unions, rights of trade unions and the right to conclude collective labour agreements.