

European Constitutions Compared

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Foreword

This comparative study is based on the German edition of *Europäische Verfassungsvergleichung* (2010) which was intended to be a comprehensive study of the institutional setting of European Constitutions, not limited to the European Union. While there are a number of comparative fundamental rights studies in the European Union and beyond, a systematic study of the constitutional principles and organisation of state powers was lacking.

The author has mainly limited the English version, which is not a genuine translation but a summary of the essential content, to a comparison of national constitutional principles and institutions. Much less space has been devoted to the principles and organisational setting of the European Union which corresponds to a large extent to its national counterparts and which today, in the understanding of European constitutional lawyers, forms a double level constitutionalism. Although the institutional setting is rather different, the common principles and values of the European Union cannot be denied and they extend even beyond its members: the parties to the Council of Europe and the European Human Rights Convention form a wider forum as a constitutional community. This approach may be controversial for constitutional lawyers who still focus mainly on their national history and constitutional achievements through the past centuries without taking due notice of European influences. But the author still maintains his basic assumption that the comparative view cannot exclude the reciprocal influence of national and European constitution building for the past and the future.

A second problem is the geographical scope of “European” constitutions. The term “European” is evidently not limited to the European Union of 28 (27) members, but comprises the countries of the Council of Europe (47 members) which may also be examined and compared. However it quickly becomes apparent that the pure citation of national constitutional provisions of countries which belong to the Council of Europe and its emanations cannot suffice for a constitutional comparison which intends to exceed semantic or nominal similarities based on the textual approach. The increasing inclination for interference in well established constitutional structures, especially the balance of power and the independence of the judiciary, is not limited to countries outside the Union (e.g. Turkey and Russia) but may have similar repercussions in the Union itself. However the comparative constitutional lawyer must personally evaluate the significance of constitutions in action, and select a variety of constitutions with which he or she is more familiar than with others: the reasons may be cultural background, legal socialisation and last but not least linguistic expertise. It is impossible to explore in detail all constitutions and subconstitutional texts, such as statutes and court judgements, other than in the English official or non-official translations if they exist at all.

These natural handicaps can never be sufficiently solved by one author alone but only by a team of national authors contributing in collective publications, which may be referred to and quoted as important sources of constitutional comparison (e.g. *Ius Publicum Europaeum* in several volumes).

The author gratefully acknowledges the publications and articles of many European lawyers which are listed in the bibliographical index or in the references at the commencement of the respective Parts.

Foreword

The author finally would like to thank all those who have encouraged him to undertake an English edition, especially Prof. em. Margot Horspool, Queen Mary University London, the partial translation and critical assistance by Dr. Raymond Youngs, former Lecturer in Law, Kingston University London, as well as to Dr. Matt le Mieux, Lecturer in Law at University of Osnabrück and to my former secretary Ms Kordts who once more transposed the whole text into the final technical version.

My thanks include the opportunity of publishing this English edition by Beck-Verlag in cooperation with Hart Publishing.

Albrecht Weber



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Table of Contents

List of Abbreviations.....	XV
Bibliography.....	XVII
Part I. Terminology.....	1
Part II. Notion and Functions of Constitution.....	7
Part III. Sources of Constitutional Law.....	15
Part IV. Constituent and Amending Power.....	23
Part V. Protecting the Constitution.....	29
Part VI. Directive Principles.....	35
Part VII. Fundamental Constitutional Principles.....	43
Part VIII. Division of Powers – Division of Functions.....	65
Part IX. Parliament.....	73
Part X. Head of State.....	127
Part XI. Government and Administration.....	145
Part XII. The Judicial Power.....	163
Part XIII. Territorial Division of Powers.....	177
Part XIV. Europeanisation and Internationalisation of the Constitution.....	195
Index.....	209



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Table of Contents (Detailed)

List of Abbreviations.....	XV
Bibliography.....	XVII

Part I. Terminology

I. European Constitutional Law (ECL)	1
II. European Constitutions Compared.....	2
III. Methodology.....	3
1. Comparative Constitutional Law.....	3
2. A Distinct Method of Interpretation?.....	4

Part II. Notion and Functions of Constitution

I. Notion of Constitution.....	7
II. Normative and Factual Constitution	8
III. Some Considerations on the Evolution of European Constitutionalism.....	8
IV. Constitution in a Formal Sense.....	9
1. Single Document.....	10
2. Primacy of Constitution.....	11
3. Enhanced Non-Revisibility.....	11
V. Constitution in a Substantial Sense.....	12
VI. Functions of Constitutions.....	13

Part III. Sources of Constitutional Law

I. Origin and categorisation of legal sources.....	15
II. Written Sources	16
1. Constitutional Norms.....	16
2. Statutes Implementing the Constitution	17
3. Autonomous Law-Making of Constitutional Organs.....	17
4. International and Supranational Law	18
III. Unwritten Sources.....	18
1. Binding Non Written Rules	18
a) Customary Constitutional Law	18
b) General Principles of Law; Constitutional Principles	19
2. Unwritten Legally Not Binding Rules.....	19
IV. Judge-made Law	20
V. Legal Sources of European Constitutional Law.....	21
1. Written Sources.....	21
2. Unwritten Sources	21

Part IV. Constituent and Amending Power

I. Distinction Between Constituent Power (“pouvoir constituant”) and Amending Power (“pouvoir constitué”).....	23
II. Normative Foundations	24
III. The Amending Power	25
1. Rigid and Flexible Constitutions.....	25
2. Procedures and Institutions of Constitutional Amendment	25
a) Qualified Majorities in Parliament (Uni- or Bicameral Systems).....	26
b) Parliamentary Resolution and Subsequent Referendum	26
c) Parliamentary Amending Proposal and Referendum.....	26
d) Parliamentary Amendment Proposal and Confirmation by a Subsequent Elected Parliament	27
e) Amendment Initiative of the People and Confirmation by Parliament	27
IV. Some Reflections on the Constituent and Amending Power in the European Union	27

Table of Contents (Detailed)

Part V. Protecting the Constitution

I. Substantial Norms for the Revision of Constitutions	29
1. Increased Formal Conditions for the Revision of Certain Substantial Elements	29
2. Substantial Norms Prohibiting Modification of the Constitution.....	29
II. The Interdiction of Unconstitutional Parties.....	31
III. Protection of the Constitution in Times of Crisis	31
1. Written or Unwritten Emergency Law?	31
2. Special Norms Prohibiting Constitutional Modifications in Emergency Situations.....	32
3. States of Internal Emergency	33
4. States of External Emergency in Times of Defence and War	33
IV. Right to Resistance.....	33
1. Historical Evolution	33
2. Examples of a Codified Right to Resistance.....	34

Part VI. Directive Principles

I. Terminology	35
II. Promotion of Peace.....	36
III. Welfare State.....	37
IV. Protection of the Environment	38
V. Culture	39
1. Evolution.....	39
2. Types of Normativity.....	40
VI. Some Remarks on Constitutional Directive Principles on the European Union Level	41

Part VII. Fundamental Constitutional Principles

I. Form of state: Monarchy or Republic?	43
II. Principle of Democracy.....	45
1. Sovereignty of the People.....	45
2. Consensus and Complexity of the Notions of Democracy.....	46
3. Representative Democracy.....	47
a) Some Reflections on the Evolution of Representative Thought	47
b) Conditions of Representative Democracy.....	48
4. Principles of Electoral Law	49
5. Forms of Direct Democracy.....	50
6. Political Parties.....	52
III. The Rule of Law as Common European Constitutional Principle.....	55
1. Evolution in Germany, France and Great Britain.....	55
2. The Rule of Law as a General Constitutional Principle	57
3. Concretisations of the Rule of Law	59
a) Separation of Powers	59
b) The Subjection of Public Powers to the Constitution.....	59
c) Primacy of and Reservation by Law	59
d) Judicial Protection.....	60
e) Legal Security.....	61
f) Principle of Equality and Prohibition of Arbitrariness	62
g) The Principle of the Rule of Law on the European Level	63

Part VIII. Division of Powers – Division of Functions

I. The Development of the Separation of Powers Model.....	65
II. Expressions of the Separation of Powers Principle in European Constitutions	65
III. Some reflections on the Separation of Functions at EU level.....	71

Part IX. Parliament

I. Existence and Development of Parliamentary Government Forms	73
II. The Legislative Function.....	74
1. Preliminary Comment on the Concept of Law	74
2. Constitutional Statutes – Statutes Implementing the Constitution	74
a) Great Britain.....	75

Table of Contents (Detailed)

b) Germany – Austria – Switzerland	75
c) France	76
d) Spain and Italy	76
e) Other Countries	77
3. Ordinary Statutes	78
III. The Division of Legislative Competence between Government and Parliament	78
1. The Development of the Statutory Reservation	78
2. Delegated Legislation	81
a) Great Britain	81
b) Germany	81
c) Switzerland	82
d) Austria	83
e) Constitutions with a priori control by parliamentary authorisation for legislation	84
f) Ex Post Facto Control of the Legislative Competence of the Government	86
3. Emergency Regulations Law and Budget Legislation	86
a) Law on Emergency Regulations by the Government	86
b) Budgetary Legislation	88
IV. Legislative Procedure	89
1. The Right of Legislative Initiative	90
a) Parliament	90
b) Government	91
c) People's Initiative	91
d) Right of Initiative of the Chambers Representing the Territorial Communities	91
e) The State President	92
2. Debating Statutes and Resolving Conflicts	92
V. Election Functions	98
1. Election of the Head of State	98
2. Appointment of the Government	99
a) Direct Election	99
b) Appointment of the Government on the Basis of Assumed Confidence	99
c) Appointment of the Government by Confidence Vote in Parliament	101
d) Appointment of the Government by Vote of Confidence and/or Election	101
3. Election of Constitutional Judges	101
VI. Control Functions	102
1. The Parliamentary Responsibility of the Government	102
a) Putting of a Vote of Confidence	102
b) Motion of No Confidence by Members of Parliament ("Motion de Censure")	105
c) Constructive Vote of No Confidence	106
d) Self-dissolution of Parliament	106
2. Parliament's Right of Citation and Right of Access of Members of the Government	107
3. Right of Questioning and Interpellation	108
4. Right of Investigation and Enquiry	109
VII. Structure and Organs	110
1. One and two Chamber Systems (monocameral and bicameral)	110
a) Monocameral Systems	111
b) Bicameral System	111
aa) Symmetrical bicameralism	112
bb) Asymmetrical Bicameralism	113
2. Self-organisation and Autonomy as to Standing Orders	113
3. Election Periods and Sessions	114
4. Organs of Parliament	115
5. The Status of Members of Parliament	116
a) Free Mandate	116
b) Immunity and Indemnity	117
c) Incompatibilities	119
d) Compensation for Expenditure	120
6. The Parliamentary Ombudsman	121
VIII. Some Reflections on the European Parliament	123

Table of Contents (Detailed)

Part X. Head of State

I. Monist and Dualist Executives	127
II. Choice of Head of State	128
1. Monarchies	128
2. Republics	128
a) Direct Election	129
b) Indirect Election	129
III. Functions of the Head of State	129
1. Integration Function	130
2. Guardian and Guarantee Functions	131
a) Control of the Constitutionality of State Action	131
b) Protective and Guarantee Function in Times of Crisis	131
3. Representation Function	133
4. The Arbitral and Mediation Function in the Political Process	136
5. Executive Functions	140

Part XI. Government and Administration

I. Government	145
1. Embedding in Constitutional Texts	146
2. Monistic and Dualistic Executives	147
a) Monistic Executives	147
b) Dualistic Executives	147
3. Principles of Leadership of the Government	148
a) The Minister President (Prime Minister; Chancellor)	148
b) Departmental Principle and Collegial Principle	150
II. The Administration	154
1. Introduction and Definition	154
2. Principles of Organisation of the Administration in Unitary States	155
3. Administrative Organisation in Regionalised States	157
4. Administrative Organisation in Federal States	159

Part XII. The Judicial Power

I. Constitutional Evolution and Function of the Judicial Power	163
II. The Organisation of the Judiciary	165
III. Constitutional Jurisdiction	167
1. Nature and Evolution of Constitutional Review	167
2. Status and Organisation	169
a) Nomination of Judges	169
b) Independence of Judges	169
3. Competences	170
IV. European Jurisdictions	173
1. Jurisdiction of the European Union	173
a) Function and Composition	173
b) Relationship Between Union and National Jurisdiction	174
2. The European Court of Human Rights (ECHR)	174
a) Function and Structure	174
b) The Relationship between National and European Human Rights Jurisdictions	175

Part XIII. Territorial Division of Powers

I. Delimitation and Categorization of Unitary, Regionalized and Federal Systems	177
II. Unitary Models	179
1. The Deconcentrated Unitary State	179
2. The Decentralised Unitary State	179
3. The Decentralised Unitary State with Partial Regional Autonomy	180
III. Regionalized States	181
1. Regional Autonomy in the United Kingdom	181
2. Spain	182
3. Italy	184

Table of Contents (Detailed)

IV. Federal Models	186
1. Germany	186
2. Austria	188
3. Switzerland	190
4. Belgium	191
 Part XIV. Europeanisation and Internationalisation of the Constitution	
I. Europeanisation	195
1. Clauses Enabling European Integration	195
2. Substantive Limits.....	196
3. Procedural Conditions.....	197
II. Relationship between Union Law and National Law.....	197
1. The Primacy of Union Law.....	198
2. Constitutional Limits of Integration	198
III. European Human Rights Convention and National Law.....	200
IV. The Internationalisation of the Constitution	202
1. Securing Peace and International Cooperation	203
2. The Position and Application of Rules of International Law	203
Index	209


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List of Abbreviations

Albanian Constitution (AlbConst)	Constitution of Albania of 21 October 1998 as amended until 2008
Art.	Article
Austrian Constitution (B-VG)	Austrian Federal Constitutional Statute (Österreichisches Bundesverfassungsgesetz) of 1 October 1920 as amended in 2016
Basic Law (BL)	Grundgesetz of the Federal Republic of Germany of 23 May 1949 as amended until 13/7/2017
Belgian Constitution (BelgConst)	Constitution of Belgium of 17 February 1994 as amended until 2014
BGE	Decisions of the Swiss Federal Court (Entscheidungen des Schweizerischen Bundesgerichts)
Bosnian Constitution	Constitution of Bosnia and Herzegovina of 21 November 1992 (Dayton)
Bulgarian Constitution (BulgConst)	Constitution of Bulgaria of 12 July 1991
BVerfG	Federal Constitutional Court
BVerfGE	Decisions of the Federal Constitutional Court (Entscheidungen des Bundesverfassungsgerichts)
BVerfGG	Federal Constitutional Court Statute (Bundesverfassungsgerichtsgesetz)
CC	French Constitutional Council (Conseil Constitutionnel)
Chap.	Chapter
Croatian Constitution (CroatConst)	Constitution of Croatia of 21 December 1990 as amended until 2010
CSM	Superior Council of Judges (Conseil Supérieur de la Magistrature: France/Italy)
CzechCHFR	Czech Charter of Fundamental Rights and Liberties as of 16 December 1992 as amended until 1998
Czech Constitution (CzechConst)	Constitution of the Czech Republic of 16 December 1992 as amended until 2013
Danish Constitution (DanConst)	Constitution of Denmark of 5 June 1953
DC	Decisions of the French Constitutional Council
DDH	Declaration of the rights of man and citizen (Declaration des Droits de l'Homme et du Citoyen) of 1789
ECA	Europeans Communities Act 1972
ECHR	European Convention of Human Rights of 4 November 1950
ECJ	European Court of Justice
ed(s).	editor/editor(s)
EP	European Parliament
Estonian Constitution (EstConst)	Constitution of Estonia of 28 June 1992 as amended until 2004
ECHFR	European Charter of Fundamental Rights
Finnish Constitution (FinConst)	Constitution of Finland of 1 March 2000 as amended until 2011
French Constitution (FrenchConst)	Constitution of the French Republic of 4 October 1958 as amended on 23 July 2008

List of Abbreviations

Greek Constitution (GreekConst)	Constitution of the Republic of Greece of 9 June 1975 as amended until 2008
Hungarian Constitution (HungConst)	Constitution of Hungary of 25 April 2011 as amended until 2013
Irish Constitution (IrishConst)	Constitution of Ireland of 1 July 1937 as amended until 2013
Italian Constitution (ItalConst)	Constitution of the Republic of Italy of 27 December 1947 as amended on 2 October 2007
Latvian Constitution (LatvConst)	Constitution of Latvia of 15 February 1922 (as restored in 1993)
Lithuanian Constitution (LithConst)	Constitution of Lithuania of 25 October 1992 as amended until 2006
Luxemburg (LuxConst)	Constitution of Luxemburg of 1868 as amended until 2009
Maltese Constitution (MaltConst)	Constitution of the Republic of Malta of 21 September 1964 as amended until 2014
Netherlands Constitution (NetherlConst)	Constitution of the Netherlands of 24 August 1815 as amended until 2008
Norwegian Constitution (NorwConst)	Constitution of Norway of 14 November 1814 as amended until 2016
para(s).	paragraph(s)
Polish Constitution (PolConst)	Constitution of Poland of 2 April 1997 as amended until 2008
Portuguese Constitution (PortConst)	Constitution of Portugal of 2 April 1976 as amended until 2005
Reichsverfassung	Constitution of the German Reich of 1871 (Deutsche Reichsverfassung 1871)
RFDC	Revue Française de Droit Constitutionnel
Romanian Constitution (RomConst)	Constitution of the Republic of Romania of 21 November 1991 as amended until 2008
Slovakian Constitution (SlovakConst)	Constitution of Slovakia of 1 September 1992 as amended until 2014
Slovenian Constitution (SlovenConst)	Constitution of Slovenia of 23 December 1991 as amended until 2016
Spanish Constitution (SpanConst)	Constitution of Spain of 29 December 1978 as amended until 2011
Swedish Constitution (SwedConst)	Constitution of Sweden (Svensk Regeringsform) of 1 January 1975 as amended until 2010
Swiss Constitution (SwissConst)	Bundesverfassung der Schweizerischen Eidgenossenschaft of 18 April 1999 (status of 1 January 2016)
TC	Tribunal Constitucional (Spain)
TEU	Treaty on the European Union of 1 December 2009 (Lisbon-Treaty)
TFEU	Treaty on the Functioning of the Treaty on the European Union of 1 December 2009
(TurkConst)	Constitution of Turkey of 7 November 1982; amended in 2017 by referendum
VfGG	Austrian Constitutional Court Statute (Österreichisches Verfassungsgerichtsgesetz)
VfGH	Austrian Constitutional Court (österreichischer Verfassungsgerichtshof)
(WeimConst)	Weimarer Reichsverfassung of 11 August 1919

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