Leġiżlazzjoni nazzjonali

Kull Stat Membru tal-Unjoni Ewropea (UE) għandu d-dritt u s-sistema legali tiegħu. Id-dritt tal-Istat Membru (SM) jista' jinkludi kemm id-dritt fuq il-livell nazzjonali (jew id-dritt nazzjonali, li huwa validu kullimkien f'ċertu Stat Membru) kif ukoll il-liġijiet li huma applikabbli biss f'ċertu żona, reġjun jew belt.

L-Istati Membri jippubblikaw id-dritt tagħhom fl-ilsien jew fl-ilsna uffiċjali tagħhom u din hija legalment vinkolanti biss f'dan l-ilsien jew f'dawn l-ilsna. Għal finijiet ta' informazzjoni, ċerti atti tad-dritt tal-Istat Membru jistgħu jkunu disponibbli wkoll f'ilsien wieħed jew iktar minbarra l-ilsien jew l-ilsna uffiċjali.

Bażijiet tad-dejta

Il-parti l-kbira tal-Istati Membri għandhom bażi tad-dejta nazzjonali tad-dritt tagħhom – tista' tikseb din l-informazzjoni billi tagħżel waħda mill-bnadar elenkati fuq il-lemin.

Barra minn hekk, il-bażi tad-dejta Ewropea N-Lex tgħaqqad il-parti l-kbira tal-bażijiet tad-dejta nazzjonali uffiċjali. N-Lex huwa proġett komuni li għaddej bħalissa u li huwa ġestit mill-Uffiċċju tal-Pubblikazzjonijiet Ewropew u mill-gvernijiet nazzjonali parteċipanti. Bħalissa, tista' tara d-dritt ta' 27 Stat Membru.

Barra minn hekk, permezz tal-Forum Ewropew tal-Gazzetti Uffiċjali, jista' jkollok aċċess għas-siti elettroniċi tal-organizzazzjonijiet responsabbli mill-pubblikazzjoni tal-gazzetti uffiċjali tal-Istati Membri tal-UE (flimkien ma' wħud mill-pajjiżi kandidati tal-UE u l-pajjiżi tal-EFTA).

Mill-perspettiva tal-UE, bosta liġijiet tal-Istati Membri effettivament jimplimentaw id-dritt tal-UE. B'mod partikolari,dan huwa l-każ għad-dritt nazzjonali li jimplimenta d-direttivi tal-UE. Jekk qed tfittex miżuri implimentattivi bħal dawn, li permezz tagħhom l-Istati Membri inkorporaw ċerti dispożizzjonijiet tad-dritt tal-UE, mela tista' tuża l-funzjoni tat-tiftix rilevanti fil-bażi tad-dejta EUR-Lex.

Sorsi tad-dritt

Id tal-Istati Membri hija derivata minn diversi sorsi, b'mod partikolari mill-kostituzzjoni, mill-istatuti jew mil-leġiżlazzjoni (li tista' tiġi adottata fuq il-livell nazzjonali, reġjonali jew lokali) u/jew mir-regolamenti tal-aġenziji tal-gvern, eċċ. Barra minn hekk, id-deċiżjonijiet ġudizzjarji mill-qrati tal-Istat Membru jistgħu jiġu żviluppati f'ġurisprudenza.

Oqsma tad-dritt

Tradizzjonalment, il-liġi tal-Istati Membri hija maqsuma f'dritt privat u f'dritt pubbliku.

Id-dritt privat jew id-dritt ċivili huwa l-qasam tad-dritt f'soċjetà li taffetwa r-relazzjonijiet bejn l-individwi jew il-gruppi mingħajr l-intervent tal-Istat jew tal-gvern.

Id-dritt pubblik jirregola r-relazzjoni bejn l-individwi u l-Istat, l-entitajiet u l-awtoritajiet tiegħu, il-poteri ta' dawn tal-aħħar u l-proċeduri rilevanti. Ġeneralment, id-dritt pubbliku jinkludi d-dritt kostituzzjonali, id-dritt amministrattiv u d-dritt kriminali. Minħabba n-natura partikolari tad-dritt kriminali, jista' jiġi kkunsidrat anki bħala kategorija fiha nfisha.

Biex tikseb informazzjoni dettaljata dwar id-dritt ta' Stat Membru partikolari, jekk jogħġbok agħżel waħda mill-bnadar elenkati fuq il-lemin.

L-aħħar aġġornament: 12/09/2023

Din il-paġna hi amministrata mill-Kummissjoni Ewropea. L-informazzjoni f'din il-paġna ma tirriflettix neċessarjament il-pożizzjoni uffiċjali tal-Kummissjoni Ewropea. Il-Kummissjoni ma taċċetta l-ebda responsabbiltà fir-rigward ta' kwalunkwe informazzjoni jew dejta li tinsab jew li hemm referenza għaliha f'dan id-dokument. Jekk jogħġbok irreferi għall-avviż legali fir-rigward tar-regoli dwar id-drittijiet tal-awtur għall-paġni Ewropej.

National legislation - Belgium

This section presents an overview of the various sources of law in Belgium.

1. What legal instruments or 'sources of law' set out the rules of law?

The law is a set of hard legal rules, written or otherwise, which govern social relations between citizens and the authorities and among citizens and also organise public administration.

A distinction is made between **formal** and **material sources**. Unlike formal sources, material sources do not contain actual rules of law. Examples of material sources include good faith, equity and reasonable conduct.

There are five categories of material sources. Three of these are mandatory – **legislation**, **customary law** and the **general principles of law**. The other two are merely 'persuasive' – **case-law** and **academic writings**.

Legislation is considered in greater detail in points 3 and 5 below. Legislation is defined as the written rules enacted by an authority. Customary law is defined as unwritten law operating on the customs and usage of people in general and traders in particular. The general principles of law express the higher values which a particular society wishes to respect, such as the equality of all citizens, the proportionality of rules and measures taken and the principle that authorities must act in accordance with the law. Many of these principles are set out in socalled legal maxims, such as *'non bis in idem'* in criminal law and the principle that *'lex posterior derogat legi priori'*.

Case-law and academic writings are persuasive sources of law. Case-law consists of the entire body of judgments issued by courts. A judgment is binding only on the parties to the case; there is no system of legal precedents in Belgium. The only judgments which are universally binding are those issued by the Constitutional Court *(Cour constitutionnelle).* The other high courts are the Council of State *(Conseil d'Etat)* (the highest administrative court) and the Court of Cassation *(Cour de cassation)* (the highest court dealing with ordinary law).

Another significant source is international law, consisting in particular of the Treaty on European Union, EU Regulations and Directives and the European Convention on Human Rights. In addition, there are many conventions concluded within the framework of international institutions such as the United Nations or the Council of Europe (multilateral conventions) or between Belgium and another state (bilateral conventions). This source of law has become very large in recent decades and continues to grow. Many provisions contained in these instruments directly influence our everyday lives.

The **sites** Législation belge (in French) or Belgische Wetgeving (in Dutch) provide access to a database of **consolidated Belgian legislation**. A search and indexing engine may be used to search for any normative text still in force and published in the Moniteur Belge **since 1830**. However, administrative and fiscal normative texts published **before 1994** are not yet completely covered.

2. What is the legal status of the general principles of law, customary law and caselaw?

See question 1.

3. What is the hierarchy of these legal instruments?

Persons residing in Belgium are subject to various categories of legal rules. They are subject not only to rules issued by the Belgian federal authorities, but also to those issued by lower entities such as the provinces and local districts(1). Belgium is also a member of various international and supranational organisations such as the United Nations, the European Union, the Council of Europe and NATO. Rules issued by these organisations also apply to the Belgian authorities and population.

Not all law-making authorities have strictly demarcated areas of jurisdiction and not all categories of rules have the same status, so conflicts can arise. Consequently, there is a hierarchy of norms, the principle being that lower-level norms should never conflict with higher-level ones.
The **Constitution** is the highest-ranking norm for Belgian internal law. It governs the separation of powers and the way in which these powers are exercised. The Constitution also sets out the fundamental values of society and the fundamental rights of citizens. In a judgment given on 27 May 1971, the Court of Cassation held that all international and supranational instruments take precedence over national instruments, including the Constitution. If an EU Regulation conflicted with the Constitution, the Regulation would prevail.
Below the Constitution, in descending order, there are:
special acts *(lois spéciales)* (acts passed by special majority which determine the division of powers and the key operational rules of public institutions);
acts *(lois)*, decrees *(décrets)* and ordinances *(ordonnances)*;
royal orders *(arrêtés royaux)* and government orders *(arrêtés de gouvernement)* implementing acts or decrees; and
ministerial orders *(arrêtés ministériels)*.

4. How do rules in supranational instruments enter into force nationally?

EU Regulations are directly applicable and the Belgian legislature is not directly involved in their implementation. But internal legislation is needed to approve and ratify international treaties. In certain areas, all legislative bodies in Belgium must approve and ratify treaties, which can be a cumbersome and time-consuming process. The domestic legislatures are also involved in implementing EU Directives, for these always require internal legislation.

5. Which authorities will be expected to adopt legal rules?

Three separate constitutional powers form the Belgian federal State: the legislature, the executive and the judiciary. The legislature draws up acts, the executive implements them and the judiciary resolves disputes arising from application of the acts.

Federal legislative power

A initiative for federal legislation may come from one or more Members of the House of Representatives, one or more Members of the Senate or the King (in practice his Ministers or Secretaries of State). These are the three components of the legislative authority in Belgium.
An act may be based on a proposal for an act *(proposition de loi)*, moved by a Member of the House or the Senate, or a draft act *(projet de loi)*, moved by the King (Ministers are authorised by the King to move draft acts). Proposals for acts and draft acts have equal weight.
Instruments to implement federal legislation are prepared by the executive authority, headed by the King. Powers may be delegated to a Minister – hence the distinction between royal and ministerial orders.

Communities, regions, provinces and municipalities

Belgium is a **federal state** consisting of communities *(communautés)* and regions *(régions)*. These, in turn, are at the root of law within the powers allocated to them under the Constitution and by certain special laws.
The powers of the communities concern in particular culture and education, while the powers of the regions cover economic policy and environmental protection. In order to exercise these powers, each community and region has a parliament. **The communities and regions may draw up acts**, called **decrees** (ordinances in the Brussels-Capital Region). Along with Members of Parliament, community and regional governments belong to the legislature at EU, regional or community level (legislative initiative). These governments must also enforce all enacted decrees and ordinances.
Belgium is also divided into **provinces** and **municipalities**. At the corresponding levels, provincial and municipal councils *(conseils)* also enact **regulations** and **ordinances** in the fields for which they are responsible, such as public safety, waste collection, culture and provincial and municipal education. The provincial executive *(collège provincial)* and municipal executive *(collège communal)* implement these regulations (as well as higher norms such as acts, decrees, ordinances and orders, within the limits of their powers).
Two of the three powers are present at these levels: legislative power, exercised by the community and regional parliaments and the provincial and municipal councils; and executive power, exercised by the community and regional governments and the provincial and municipal executives. Judicial power is not divided in this way. Organisation of the courts is solely a federal responsibility.

6. What is the procedure for adopting these legal rules?

See question 5.
At federal level, the House of Representatives and, if appropriate, the Senate, **vote on draft acts or proposals for acts**, after possible consideration by the Council of State. They are then transmitted to the **King**, who **gives his assent and promulgates them** once they have been **countersigned by the relevant minister**.

7. How do rules of national origin enter into force?

Federal legislation comes into existence when enacted and promulgated by the King. As a rule, legislation enters into force ten days after publication in the Belgian State Gazette, unless otherwise specified(2).
Legislation of a federal unit of the state – decrees and ordinances – is brought into force and published by the government of that federal unit. It enters into force ten days after being published in the Moniteur Belge, unless otherwise specified.

8. How are conflicts between different legal rules resolved within the Member State?

Conflicts between properly enacted legal instruments may be resolved in a number of ways. The hierarchy of norms allows most conflicts to be avoided, but if conflicts do arise they must be resolved.
Under Article 142 of the Constitution, the Constitutional Court has sole jurisdiction to review legislation for compatibility with the rules governing the powers of the State, the communities and the regions. These rules are laid down in the Constitution and in the legislation on institutional reform in the federal state of Belgium.
The Constitutional Court is also empowered to rule in cases where it is alleged that legislation violates the fundamental rights and freedoms secured by Title II (Articles 8-32) of the Constitution. These include the principle of equality (Article 10) and the ban on discrimination (Article 11). The Constitutional Court may also review legislation for compatibility with Article 170 (legality in tax law), Article 172 (equality in tax law) and Article 191 (protection for foreign nationals) of the Constitution.
See also Service public fédéral Justice and the special Act of 6 January 1989 on the Constitutional Court – 'législation consolidée'.
The Council of State(3), acting under Article 160 of the Constitution, settles all conflicts between implementing instruments (orders and regulations) and legislative instruments. There is also a Parliamentary Review Committee, which looks into conflicts of interest.

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(1) Cf. Service public fédéral Justice (https://justitie.belgium.be), 'Législation consolidée', the 1994 Constitution and the special Act of 8 August 1980 on institutional reform, as well as the federal portal website, under 'La Belgique'.
The Flemish Community with the Flemish Council (also known as the Flemish Parliament)
The French Community with the Council of the French Community
The German-speaking Community with the Council of the German-speaking Community
The Flemish Region with the same Flemish Council

The Walloon Region with the Council of the Walloon Region
The Brussels-Capital Region with the Council of the Brussels-Capital Region (for certain matters organised as the Flemish and French Committees for Community Affairs)
The communities have powers over:
cultural affairs;
education, except […];
cooperation between the communities and international cooperation, including powers to conclude treaties on matters under points 1 and 2.
The Councils of the Flemish and French Communities each enact decrees applicable to their own territory on various matters relating to cooperation between the communities and to international cooperation, including powers to conclude treaties. The Council of the Germanspeaking Community has similar powers.
The Regional Councils have powers in matters relating to land planning, monuments and rural management, the economy, agriculture, etc.
(2) See Service public fédéral Justice, 'Législation consolidée', Act of 31 May 1961 on the use of languages in legislation and the drafting, publication and entry into force of legislation and regulations.
(3) See Service public fédéral Justice, 'Législation consolidée', consolidated acts of 12 January 1973 on the Council of State.
« Legal order - General information | Belgium - General information
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National legislation - Bulgaria

This page presents information on the Bulgarian legal system and an overview of Bulgarian law.

Sources of law

National sources of law

Sources of law include:
the Constitution of the Republic of Bulgaria (Promulgated in SG 56/13 July 1991, amended in SG 85/26 September 2003, SG 18/25 February 2005, SG 27 /31 March 2006, SG 78/26 September 2006 - Constitutional Court Decision No 7/2006, SG 12/6 February 2007, SG 100/18 December 2015 [DB1]);
primary legislation; and
secondary legislation.
Case law is not a formal source of law, but it is binding on the law enforcement authorities.

European and international sources of law

Written instruments include the Constitution of the Republic of Bulgaria, international treaties, laws and secondary legislation (decrees, regulations, implementing rules, instructions and orders).
The Constitution of the Republic of Bulgaria (*Konstitutsiata na Republika Balgaria*) is the highest-ranking legal act. It establishes the organisation, principles, powers and duties of state institutions, as well as the rights and duties of citizens.
A law (*zakon*) is a normative act regulating societal relations *ab initio* or under the Constitution through settled arrangements enacted, depending on the subject matter or persons concerned, by one or more legislative bodies or subdivisions thereof.
All legislative acts are promulgated and enter into force three days after the date of their publication, unless the acts themselves provide otherwise.
The Council of Ministers issues a **decree** (*postanovlenie*) when it adopts implementing rules, regulations or instructions, and when it regulates, in accordance with laws, for societal arrangements not regulated by those laws within its executive and administrative remit.
Implementing rules (*pravilnik*) are normative acts issued to implement a law in its entirety. They provide for the organisation of state and local bodies or for the internal order of their activities.
A **regulation** (*naredba*) is a normative act issued to implement certain provisions or other sections of a higher-ranking normative act.
An **instruction** (*instruktsia*) is a normative act whereby a higher body gives instructions to subordinate bodies concerning the implementation of a normative act that it has issued or is required to enforce.
Other non-written sources of law, such as **legal custom** (*pravniyat obichay*) and **general principles of law** (*obshtite printsipi na pravoto*), are also important.
The **interpretative decisions of the supreme courts** can be regarded as a subsidiary source of law.
The Constitutional Court (*Konstitutsionen sad*) acts by means of decisions, rulings and orders.
The Court rules on the substance of a case by means of a decision.
Decisions of the Court are promulgated in the State Gazette within 15 days of the date on which they are issued and enter into force three days after their promulgation.

Hierarchy of norms

The Constitution of the Republic of Bulgaria is the supreme law. The supremacy of EU law is not specifically established in the Constitution, but it is considered superior to national law.
According to Article 5(4) of the Constitution, international treaties that have been ratified in accordance with the constitutional procedure, have been promulgated and have entered into force in the Republic of Bulgaria become part of the legislation of the state. They take precedence over any conflicting provision of domestic legislation.
The next highest-ranking normative acts are laws. The executive enacts secondary legislation such as decrees, regulations, decisions, implementing rules, instructions and orders.

Institutional framework

Institutions responsible for the adoption of legal rules

The National Assembly (*Narodno sabranie*) is vested with legislative authority. It can pass, amend, supplement and repeal laws.
On the basis of laws and in order to implement them, the Council of Ministers (*Ministerski savet*) adopts decrees, orders and decisions. By means of decrees, the Council of Ministers also adopts implementing rules and regulations.
The Ministers issue implementing rules, regulations, instructions and orders.
The Council of Ministers concludes international treaties when authorised to do so by law. The National Assembly ratifies (or rejects) international treaties that:
are of a political or military nature;
concern the Republic of Bulgaria's participation in international organisations;
provide for adjustments to the borders of the Republic of Bulgaria;

impose financial obligations on the state;
provide for the state's participation in international arbitration or legal proceedings;
concern fundamental human rights;
concern the effect of the law or require new legislation in order to be enforced;
expressly require ratification;
confer on the European Union powers ensuing from the Constitution.

Legislative process

Adoption of the Constitution

A new Constitution is adopted by a Grand National Assembly (*Veliko narodno sabranie*) consisting of 400 members.
The National Assembly is free to amend any provisions of the Constitution other than those that fall under the prerogative of the Grand National Assembly. A constitutional amendment requires a majority of three-quarters of the votes of all members of the National Assembly in three ballots on three different days. A constitutional amendment is signed and promulgated in the State Gazette by the President of the Grand National Assembly within seven days of being passed.

Legislative initiative

Pursuant to Article 87 of the Constitution, any member of the National Assembly or the Council of Ministers has the right to introduce a bill.
A bill is adopted by the National Assembly in two readings. During the first reading, the bill is debated in its entirety. Members may submit written motions to amend a bill that has been adopted at first reading within the time-limit specified by the National Assembly. The National Assembly debates the bill in detail and adopts it at the second reading. The adopted bill is sent to the President of the Republic of Bulgaria, who signs a decree for its promulgation. The act is promulgated in the State Gazette and enters into force three days after its publication, unless the act provides otherwise.

Legal databases

The State Gazette (*Darzhaven vestnik*) is available free of charge on the State Gazette website. The online edition contains bills promulgated by the National Assembly, decrees issued by the Council of Ministers, international treaties, other legal acts, public procurement and concession notices, etc.
Commercial legal databases such as Apis, Ciela and the Juridical Encyclopaedia offer a full range of legal information but are not free of charge.
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National legislation - Czechia

This page gives you information on the legal system and an overview of the law of the Czech Republic.

Sources of law

Czech law, which forms part of continental European legal culture, is founded on written law and includes acts and other legislative instruments, promulgated international treaties ratified by the Czech Parliament [Parlament ČR], and rulings of the Constitutional Court [Ústavní soud] annulling all or part of a legislative provision.

Types of legal instrument – description

The legal order of the Czech Republic is made up of all Czech legislation and related instruments.
The most important legislative instruments are **acts** [*zákony*], i.e. collections of rules of behaviour governing the main areas in the lives of individuals and society. More comprehensive acts known as **codes** [*zákoníky*] govern a whole area of law and set out the detailed provisions in a systematic way. Acts encompassing a whole area of procedural law and setting out detailed procedural provisions are called **rules of procedure** (*řády*). Acts on the most important matters of state and on citizens' and human rights (including the Constitution of the Czech Republic and the Charter of Fundamental Rights and Freedoms) are known as **constitutional acts** [*ústavní zákony*] and there is a special procedure for their adoption.
The acts are underpinned by implementing regulations: **government regulations, decrees from ministries or central-government bodies, and decrees from autonomous regional entities**.
Czech law also includes **international agreements** that have been ratified by Parliament and are thus binding on the Czech Republic. International agreements take priority over other legislation to the extent that an international agreement takes precedence over national law if the two differ on a given point.
Besides the types of legislation referred to above, **European law** has also applied in the Czech Republic, in the same way as in other Member States, since its accession to the European Union.
Custom is not a source of law in the Czech Republic. In some cases, however, the law allows custom to be taken into account in the context of certain fields or legal principles. Where this is the case, it is specified by the law in question and the courts can enforce those provisions. The prevalent view therefore is that the legal source is not the legal principle or the custom itself, but the law which refers to it.
A court judgment is not a source of law either. On the other hand, a court cannot refuse to take a decision because the law is incomplete or ambiguous. Often it must give its own interpretation of the matter, on which other courts will then, to a large extent, base their judgments, making this a *de facto* legal precedent. If the judgment is published in the *Sbírka soudních rozhodnutí a stanovisek* (Collection of Court Judgments and Opinions), where fundamental decisions of higher courts are generally published, it is in fact considered a source of law, even though it is not officially regarded as such.

The hierarchy of sources of law

The legal order of the Czech Republic is hierarchically structured. At the top are the Constitution and the other constitutional acts; these carry the greatest legal authority and can be amended only by another constitutional act. Below these come ordinary acts, the basis for implementing regulations, which carry the least legal weight. Provisions of lesser legal weight must comply with those which are higher in the legal hierarchy. Legislation may be repealed or amended only by provisions of the same or greater legal weight. **International agreements** have special standing. As indicated above, they are part of the legal order and take precedence even over a constitutional act in the event of a conflict.
Legislation derived from acts – government regulations, decisions of the President of the Republic of a generally normative nature (such as those on amnesty), legislative provisions of ministries and other central and local government authorities, delegated decrees of regional and municipal authorities. Such provisions must be issued on the basis and within the limits of an act, within the scope of lawful authority.
As regards **European law**, the EU principle of the supremacy of Community law applies just as in the other Member States. Under this principle, European legislation takes precedence when there is a conflict between European law and the national law of a Member State (acts, decrees etc.). This applies equally where there is a conflict between national law and primary Community legislation (the Treaties) and between national law and secondary Community legislation (regulations, directives etc.). Under the prevailing interpretation of the law, not even the supreme national legal instruments are exempt - European law even takes precedence over the constitutions and constitutional acts of Member States.

For international agreements, which are binding on the Czech Republic, to become part of its law, Parliament must ratify them, provided that no constitutional act requires the agreement concerned to be ratified by referendum. The President of the Republic ratifies international agreements. After ratification, the Czech version of the agreement must be published in the *Sbírka mezinárodních smluv* (Collection of International Agreements).

Institutional framework

Institutions responsible for adopting legislation

The legislative power of the Czech Republic is vested in its Parliament, which comprises two chambers:
the Chamber of Deputies (200 deputies) and
the Senate (81 senators).

The legislative process

The law-making or legislative process starts with the right of initiative. Individual members of Parliament or groups of members, the Senate, the government, and the regional authorities have the right to propose new acts and amendments to existing acts. Only the government may propose acts concerning the state budget or closure of the national accounts; only the Chamber of Deputies may decide on such acts. The government, however, has the right to express its opinion on any draft act (bill). The Chamber of Deputies first discusses and if necessary amends the draft in three successive readings.

Approval of the act requires a simple majority of the deputies present. The President of the Chamber of Deputies then sends the approved draft to the Senate as soon as possible and the Senate has just 30 days to discuss it — in contrast to the often long-drawn-out discussions in the Chamber of Deputies, which sometimes last for months. By the end of that time, the Senate must approve or reject the draft or return an amended version of it to the Chamber of Deputies. It can also decide not to discuss the act at all. If the Senate approves the draft, decides not to discuss it, or expresses no opinion by the deadline, the act is deemed to be adopted and is sent to the President of the Republic for signature. If the Senate rejects the draft, the Chamber of Deputies votes on it once again. The act is adopted if approved by a simple majority in the Chamber of Deputies. If the Senate sends an amended draft back to the Chamber of Deputies, the lower house votes on the version approved by the Senate. The draft act is adopted by a simple majority of the deputies. If the Chamber of Deputies does not approve the Senate's amended draft, it votes again on the original version of the draft sent to the Senate. The act is adopted if approved by a simple majority of all deputies (i.e. at least 101 votes). Electoral acts and certain other types of act must be approved by both the Chamber of Deputies and the Senate.

The President of the Republic may decide not to sign an approved draft within 15 days of it being sent to him, and may return it to the Chamber of Deputies for further discussion, stating his reasons. This is known as a presidential veto. The Chamber of Deputies can overturn the presidential veto by a simple majority of its members without any amendments to the draft, in which case the act is passed. Otherwise it is not adopted.

Besides the President of the Republic, the President of the Chamber of Deputies and the Prime Minister also sign acts, though this is just a formality.

When the Chamber of Deputies is dissolved, the Senate may adopt legislation in certain areas requiring immediate action which would otherwise require the adoption of an act. The government can propose measures to the Senate and these must be approved by the Chamber of Deputies at its first meeting, otherwise they lapse.

The exceptions in this legislative process are constitutional acts. For these acts to be adopted, they must be approved by a three-fifths majority of all deputies (a qualified majority) and a three-fifths majority of senators present, rather than by a simple majority (half) of all the Members of Parliament present, as required for ordinary acts. Constitutional acts can be amended or extended only by means of other constitutional acts (i.e. when the Chamber of Deputies is dissolved, they cannot be changed by Senate legislation) and the President cannot veto them.

Ministries, other administrative agencies and self-governing regional bodies may issue detailed implementing rules (regulations and decrees) within the limits of their competence.

Validity of legislation

For a piece of legislation to enter into force, it has to be published. Constitutional acts, acts and other legislative provisions (government regulations, ministerial decrees etc.) are published in the *Sbírka zakonů* (Collection of Acts) issued by the Ministry of the Interior. Legislation enters into force and becomes part of Czech law on the day on which it is published in the *Sbírka zakonů*. The Collection also records the date on which each piece of legislation takes effect. This is the date from which everyone is obliged to comply with the legislation in question. If no later date is stipulated, the legislation takes effect fifteen days after publication. In cases of overriding public interest, the date of entry into effect may be brought forward, but may not precede the date of publication. Thus, the date on which a piece of legislation takes effect may be the same as the date of its entry into force, but it may never take effect before it enters into force. Legislation adopted by the Senate is published in the *Sbírka zakonů* in the same way as acts; ratified international agreements are published in the *Sbírka mezinárodních smluv* (Collection of International Agreements). Regional legislation is published in official gazettes; municipal legislation is displayed on the official council noticeboard for 15 days and then by whatever means is standard in that locality.

Where acts or their individual provisions conflict with the constitutional order or where other legal instruments or their individual provisions conflict with the constitutional order or with an act, the Constitutional Court decides whether they should be repealed.

For more information, see the text of the Constitution: Ústava.

Legal database

The legal database is owned and maintained by the Ministry of the Interior of the Czech Republic. It contains the following information:
a section of the official website of the Ministry of the Interior (Ministerstvo vnitra) dedicated to the legislature (legislativa). It contains electronic (PDF) copies of the Collection of Acts (Sbírka zákonů) and the Collection of International Agreements (Sbírka mezinárodních smluv) (part of the official gazette). The site has no official status or legal force. Only the printed text of the Collection of Acts is authentic. The site can be accessed by the public, and you can conduct full-text document and metadata searches for the information you need.

The Acts section (Sekce zákony) of the Czech government portal (Portál veřejné správy České republiky) contains the full, up-to-date texts of acts and implementing regulations. This website has no official status or legal force. You can conduct full-text searches and searches by name and number of the documents in the database.

The ISAP information system gives access to the databases used to allocate coordination roles to Council documents and to legislative acts published in the EU Official Journal. It also monitors the implementation process, the national legislative process and infringement procedures. The database provides an electronic archive of national positions, working papers, correlation tables and so on.

Case law

In the Czech Republic there is no single official or private collection that systematically publishes the fundamental judgments of all Czech courts, i.e. those of the Constitutional Court and the general courts that may have general implications. The findings of the Constitutional Court are published in the *Sbírka nálezů a usnesení Ústavního soudu* (Collection of Rulings and Resolutions of the Constitutional Court), published by C. H. Beck in Prague. Where the judgments of general courts are concerned, only selected findings of the supreme courts, i.e. the Supreme Court and the Supreme Administrative Court, are systematically published. The selected judgments of the Supreme Court and also its opinions, whose purpose is to consolidate the case law of the lower civil and criminal courts of the ordinary judiciary, are printed in the *Sbírka soudních rozhodnutí a stanovisek* (Collection of Court Judgments and Opinions), published by LexisNexis in Prague. Selected judgments and resolutions of the Supreme Administrative Court are published in the *Sbírka rozhodnutí Nejvyššího správního*

soudu (Collection of Judgments of the Supreme Administrative Court), published by ASPI in Prague. The case law of the lower general courts is not systematically published; selected judgments are sometimes published in legal periodicals.
Official electronic search engines for the case law of the Constitutional Court and both supreme general courts are of practical importance here, covering the judgments of those courts in their entirety. These initiate electronic searches of the servers of the various lower general courts in order to display selections from their case law.
judikatura Ústavního soudu ČR (Constitutional Court case law)
judikatura Nejvyššího soudu ČR (Supreme Court case law)
judikatura Nejvyššího správního soudu (Supreme Administrative Court case law)

Is access to the database free of charge?

Access to the database is **free of charge**.
Selected commercial databases:
ASPI
LEXDATA
LEXGALAXY
SAGIT
TORI
Last update: 16/09/2020
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National legislation - Denmark

This page provides you with information on the legal system in Denmark.
For information on the Danish legal system please consult the websites of the Danish Ministry of Justice and the Danish Parliament.

Legal sources

The main sources of law in Denmark are legislation, preparatory legislative work and case law.
Legislation is the primary source of law and is published in the Law Gazette. Since 2008 the Law Gazette has only been available in electronic form. Legislation is divided into, among other things, laws, orders and administrative regulations. Laws are adopted by the Danish Parliament, orders are issued by the Government, and administrative regulations are drafted by authorities.
Parliament is the only body with the power to adopt new laws or to amend existing legislation. Once adopted, legislation may be repealed or amended only by Parliament
Court rulings also play an important role in the application of the law. Supreme Court rulings are often more significant than rulings by lower courts.
Preparatory legislative work, which is carried out during the legislative procedure, is also an important part of the application of the law.

Legal databases

The legal information portal (Retsinformation) gives citizens access to:
laws, administrative rules, treaties and consolidated legislation
parliamentary documents
administrative decisions
decisions by the Ombudsman.
The portal contains all legislation in force on 1 January 1985 and all legislation adopted after that date.
Access to the database is **free of charge**.
Last update: 20/06/2022
The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

National legislation - Germany

The Federal Republic of Germany is a democratic, federal and social constitutional state. Together with the fundamental rights, the principles of a democratic, federal and social constitutional state form the inviolable core of the German constitution, adherence to which is safeguarded by the Federal Constitutional Court.

Legal sources

The Basic Law (Grundgesetz) is the German Constitution, which provides the framework for the legal system and values of the Federal Republic of Germany. In particular, it lays down the following:
the fundamental rights as the supreme guiding principles
the fundamental structure and essential structural principles of the state and its governing bodies
the principles by which elections to the Bundestag (the lower house of the German Parliament) are conducted
the basis for the status and rights of the freely elected members of the Bundestag
how the Bundestag is organised and conducts its business
the responsibilities and organisation of the Bundesrat (the upper house of the German Parliament through which the Länder [federal states] participate in the legislative process at federal level)
the distribution of legislative and administrative competencies between the Federation and the Länder
the fundamental principles underpinning the organisation of the courts.

Types of legal instruments - description

The main **written sources** of German domestic law are the Basic Law, **legislation**, **statutory instruments** and **bylaws**.

Legislation

Legislation in a material sense is abstract and general with external effect, while legislation in a formal sense is a legal act that has been adopted by the competent legislative bodies in accordance with the constitutional procedure.

Germany is a **federal state made up of 16 constituent states – the Länder**. Accordingly, there are **federal laws**, which apply throughout the whole territory of the Federation, and **Land laws**, that only have validity in the Land in question. Each Land has its own constitution and, within the framework of the competencies assigned to it by the Basic Law, also has the power to adopt legislation as well as statutory instruments and bylaws.
The **legislative competencies** of the Federation and the Länder are regulated in detail by the Basic Law. The Länder have legislative powers, provided such powers have not been transferred to the federal government under the Basic Law. The key legislative powers of the Federation are set out in Articles 71 to 74 of the Basic Law. In addition, further legislative powers of the Federation are stipulated at various points in the Basic Law.

Exclusive legislative power of the Federation

In fields subject to the exclusive legislative power of the Federation, the Länder only have the power to adopt legislation where they are expressly empowered to do so by a federal law (Article 71 of the Basic Law).
According to Article 73 of the Basic Law, the Federation holds exclusive legislative power in the following fields (inter alia): all foreign policy issues, defence (including the protection of the civil population), citizenship, freedom of movement, passports, residency registration and identity cards, immigration, emigration and extradition, currency and money, the unity of the customs and trading area, air transport, cooperation between the Federation and the Länder concerning criminal police work, and the law on weapons and explosives.

Concurrent legislative powers

In fields subject to concurrent legislation, the Länder have the right to adopt legislation provided and to the extent that the Federation does not exercise its legislative powers in the same field (Article 72 of the Basic Law). The legal areas subject to concurrent legislation include: civil, criminal and road traffic law, as well as the law of association, the law relating to the residence and establishment of foreign nationals, the law relating to economic matters, employment law, social security law and certain aspects of consumer protection. With regard to certain matters listed in Article 74 of the Basic Law as falling within the scope of concurrent legislation, the Federation has the right to adopt legislation only if and to the extent that the establishment of equivalent living conditions throughout Germany or the maintenance of legal or economic unity renders federal regulation necessary in the national interest.

Statutory instrument

The statutory instrument is a regulation of abstract, general application with external effect that is adopted by the executive on the basis of appropriate statutory authorisation.

Bylaw

A bylaw is a legal provision of abstract, general application that can be adopted by a legal person organised under public law within the framework of the autonomy legally conferred on it and that covers persons who belong to or fall under the rules of said legal person.

Status of customary and case law

In addition to the written sources of law, there are **unwritten sources of law**, including the general principles enshrined in international law and customary law. In principle case-law is not a legal source, even though it plays an important role in practice. Certain decisions of the Federal Constitutional Court (Bundesverfassungsgericht) alone have the force of law.

International sources of law and European Union law

Under Article 25 of the Basic Law the general rules of international law are afforded a specific role within the national hierarchy of norms: in accordance with the first sentence of Article 25 of the Basic Law they are an integral part of federal law, while the second sentence of Article 25 stipulates that they take precedence over legislation; the general rules of international law therefore lie between the Constitution and legislation in the national hierarchy of norms.
In accordance with Article 59(2)(1) of the Basic Law, international treaties that relate to matters of federal legislation must be approved by the competent bodies in the form of a federal law in order to apply domestically. Within the national hierarchy of norms they are therefore only ranked at the same level as a federal law.

European Union law

Specific constitutional provisions apply to Germany's participation in the EU (Article 23 of the Basic Law) and to other situations in which sovereign powers are transferred to international organisations (Article 24 of the Basic Law) through the conclusion of international treaties.
Under the conditions laid down in Article 23 of the Basic Law, EU primary legislation applies domestically within Germany pursuant to the necessary act to this effect (which also requires the consent of the Bundesrat); in principle, directly applicable EU secondary legislation (e.g. Regulations) applies directly in Germany on the basis of its status; secondary legislation that requires transposition into national law (e.g. Directives) in principle only becomes applicable in Germany when the national transposing legislation is adopted; in accordance with the case-law of the Court of Justice of the European Union, in the event of conflicting domestic law, EU law in principle has primacy of application and the national law must be interpreted in a manner that is compliant with EU law and mitigates such a conflict, insofar as the national law in question allows scope for interpretation.

Most important acts/legislation

Constitutional law

- Basic Law for the Federal Republic of Germany (Grundgesetz, GG) - English translation
- Act on the Federal Constitutional Court (Gesetz über das Bundesverfassungsgericht, BVerfGG) - English translation

Civil law

- Civil Code (Bürgerliches Gesetzbuch, BGB) - English translation
- Code of Civil Procedure (Zivilprozessordnung, ZPO) - English translation

Commercial law

- Commercial Code (Handelsgesetzbuch, HGB) - English translation
- Stock Corporation Act (Aktiengesetz, AktG) - English translation
- Act on Limited Liability Companies (Gesetz betreffend die Gesellschaften mit beschränkter Haftung, GmbHG) - English translation

Administrative law

- Code of Administrative Court Procedure (Verwaltungsgerichtsordnung, VwGO) - English translation
- Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG)

Criminal law

- Criminal Code (Strafgesetzbuch, StGB) - English translation
- Code of Criminal Procedure (Strafprozeßordnung, StPO) - English translation

Hierarchy of norms

The **Basic Law heads** the hierarchy of domestic norms. It is superior to all other sources of domestic law and, as the **Constitution**, is the instrument on which the entire German legal system depends. Every legal provision adopted in Germany must be compatible with the Basic Law both in form and in substance. To this end, Article 20(3) of the Basic Law specifies that the legislature is bound by the constitutional order, and the executive and judiciary by law and

justice. Furthermore, the legislature, executive and judiciary are particularly bound by the basic rights laid down in Articles 1 to 19 of the Basic Law, which are directly applicable law (Article 1(3)). The precedence of the Basic Law is ultimately guaranteed by the Federal Constitutional Court. Only the Federal Constitutional Court can declare an act of Parliament invalid in the event of any such act being unconstitutional.

Article 79(2) stipulates that the Basic Law can only be amended by a two-thirds majority of the members of the Bundestag and two thirds of the votes of the Bundesrat, which is the organ through which the Länder participate in the enactment of legislation within, and administration of, the Federation, and in matters concerning the European Union. Certain **key components of the Basic Law** – i.e. the division of the Federation into Länder, their participation, in principle, in the legislative process and the principles laid down in Articles 1 and 20 – **may not be amended** at all (Article 79(3), the so-called **eternity clause**, which guarantees that fundamental constitutional decisions laid down in the Basic Law will be retained).

The **general rules of international law** rank below the Constitution but above the laws of the Federation and the Länder. These general rules include customary international law and the general principles of international law, but not international contract law. The Basic Law explicitly states that these general rules are an integral part of federal law, that they take precedence over such laws and that they directly create rights and duties for the inhabitants of the federal territory (Article 25). These general rules of international law with legal effect for individuals (i.e. rules designed for the protection of the individual) include, in particular, the guarantee of an appropriate form of legal protection for foreigners or the 'speciality rule', whereby criminal proceedings are subject to the terms of the extradition authorisation of the extraditing foreign state.

Ordinary **legislation** ranks below the Constitution. Laws are passed **by the Bundestag in conjunction with the Bundesrat**. Draft laws may be introduced in the Bundestag by the Federal Government, by the Bundesrat, or from the floor of the Bundestag (by a parliamentary group or at least 5% of its members). The Basic Law specifies the cases in which final approval of a law by the Bundestag requires the consent of the Bundesrat (currently – according to statistical material published by the Bundesrat on its website – about 38% of all laws). As for the remaining laws passed by the Bundestag, the Bundesrat may only object to a draft law adopted by the Bundestag; this objection may in turn be rejected by the Bundestag. Where there are differences of opinion between the Bundestag and the Bundesrat, a common committee for joint consideration of draft laws (the Mediation Committee) composed of an equal number of members of the Bundestag and the Bundesrat (currently 16 members each) may be convened. The role of the Mediation Committee is to produce proposals for achieving unanimity, though it cannot itself make decisions on behalf of the Bundestag and the Bundesrat.

Statutory instruments are subordinate to legislation and may be issued by the Federal Government, a federal minister or the Land governments. **Bylaws** rank beneath statutory instruments and may be issued by a corporate body organised under public law (e.g. a municipality).

Legislative process

German **laws** are made by the country's two houses of parliament. The **Bundestag** is therefore the most important legislative organ. It **decides** on **all laws that fall within the sphere of competence of the Federation** in a legislative process that also requires the participation of the Bundesrat.

Under Germany's federal system, the **Länder** hold a considerable share of the powers of the state, and therefore the **Bundesrat** also **participates in the adoption of legislation**. All acts are submitted to the Bundesrat for it to vote on and, in the case of legislation that requires its approval, it may even cause the rejection of some draft acts.

Legislative initiative

Most draft acts and proposals are drawn up by the **Federal Government**. As the central level of the executive, it has most experience of the implementation of legislation and a direct insight into where new statutory provisions are needed in practice.

However, not only the Federal Government but also the **Bundesrat** is entitled to initiate the draft acts.

The **members and parliamentary groups of the Bundestag** are also entitled to introduce new or revised pieces of legislation in the Bundestag as draft acts. These are debated, deliberated on and voted on in Parliament in accordance with a precisely regulated procedure.

Initiatives introduced by the Federal Government or the Bundesrat

If the **Federal Government** wishes to propose or amend a law, the Federal Chancellor must initially refer the draft to the **Bundesrat**.

As a rule, the Bundesrat then has a period of 6 weeks in which to deliver its **comments on the draft act**, to which the government may in turn respond with a written counterstatement. The Federal Chancellor then forwards the draft to the Bundestag with the Bundesrat's comments. One **exception** to this procedure is the draft **Budget Act**, which is transmitted simultaneously to the Bundesrat and the Bundestag.

A similar procedure applies when legislative initiatives are introduced by the Bundesrat. Once the majority of the members of the Bundesrat have voted in favour of a draft act, it goes first to the Federal Government, which attaches its comments to it, usually within 6 weeks, and it is then forwarded to the Bundestag.

Initiatives introduced from the floor of the Bundestag

Draft acts may also be initiated by members of the Bundestag, in which case they must be supported either by **at least one of the parliamentary groups or by at least 5% of the members of the Bundestag**.

Draft acts introduced in this way do not have to be submitted first to the Bundesrat. For this reason, the government sometimes arranges for particularly **urgent draft acts** to be introduced by the governing parliamentary groups in the Bundestag.

Deliberation on the draft act and adoption of the legislation

Distribution of items for discussion

Before a draft act can be deliberated on in the Bundestag, it must first be referred to the President of the Bundestag and registered by the administration.

It is then distributed to all members of the Bundestag and Bundesrat, and to the federal ministries, as a printed document or, more usually, in electronic form.

As soon as the draft act has been placed on the **agenda of the plenary**, the first stage of its passage through Parliament is over: it may then be **officially presented** in the public forum of the Bundestag.

Three readings in the plenary

As a rule, draft acts are **debated three times** in the plenary of the Bundestag. These debates are known as **readings**.

During the first reading, a debate is only held if this has been agreed in the Ältestenrat (Council of Elders, the executive body of the Bundestag) or requested by one of the parliamentary groups. For the most part, this happens when legislative projects are particularly controversial or of special interest to the public.

The primary goal of the first reading is to **designate one or several committees** to consider the draft act and prepare it for its second reading. This is done on the basis of recommendations made by the Council of Elders.

If several committees are designated, one committee is given overall responsibility for the deliberations on the item, and is therefore responsible for the passage of the draft act through Parliament. The other committees are asked for their opinions.

Legislative work in the committees

The **detailed work on legislation** takes place in the permanent committees, which comprise members from all the parliamentary groups. The committee members familiarise themselves with the material and deliberate on it at their meetings. They may also invite experts and representatives of stakeholder groups to public hearings.

In parallel to the work done by the committees, the **parliamentary groups** form working groups, in which they examine the issues concerned and define their own positions.
It is not unusual for the parliamentary groups in the committees to find common positions. Most draft acts are revised to a greater or lesser extent as a result of collaboration between the governing and opposition parliamentary groups.
Following conclusion of the deliberations, the **committee with overall responsibility for a draft act presents the plenary with a report** on the course and results of its deliberations. The **decision it recommends** forms the basis for the second reading that now takes place in the plenary.

Debate during the second reading

Before the second reading, all members receive the published **recommendation for a decision** in printed form. They are therefore well prepared for the debate. The parliamentary groups also coordinate their positions once again in internal meetings prior to this debate, in order to present a united front in the public second reading.
Following the general debate, all the provisions set out in the draft act may be considered individually. As a rule, however, the plenary moves directly to a vote on the draft act as a whole.
Any member of the Bundestag may table **motions for amendments**, which are then dealt with immediately in the plenary. If the plenary adopts amendments, the new version of the draft act must first be printed and distributed. However, this procedure may be shortened with the consent of two thirds of the members present. It is then possible for the third reading to begin immediately.

Voting during the third reading

Another debate is held during the third reading only if this is requested by a parliamentary group or at least 5% of the members of the Bundestag.
Motions for amendments may no longer be tabled by individual members at this stage, but only by one of the parliamentary groups or by 5% of the members of the Bundestag. Furthermore, motions may only be tabled on amendments adopted during the second reading.
The **final vote** is held at the **end of the third reading**. When the President of the Bundestag asks for votes in favour, votes against and abstentions, the members respond by rising from their seats.
Once a draft act has gained the necessary majority in the plenary of the Bundestag, it is **transmitted to the Bundesrat as an act**.

Consent of the Bundesrat

Through the **Bundesrat** the **Länder** are involved in the shaping of every piece of legislation. In this respect, the Bundesrat's **rights to participate** in the legislative process are precisely defined.
The Bundesrat may not make amendments to an act adopted by the Bundestag. However, if it does not agree to an act, it may demand that the **Mediation Committee** (Vermittlungsausschuss) be convened. The Mediation Committee consists of an equal number of members of the Bundestag and Bundesrat.
For some draft acts, referred to as **laws requiring consent (Zustimmungsgesetze)**, the consent of the Bundesrat is a compulsory requirement. These include, for example, acts which require the Länder to pay benefits to citizens or which affect the administrative competencies of the Länder.
Where **draft acts to which the Bundesrat may lodge an objection** are concerned, the Bundestag may put an act into force even if no agreement has been reached in the Mediation Committee. However, this requires another vote in which the Bundestag passes the draft act by an absolute majority.
For further details please refer to the website of the Bundestag and Bundesrat.

Promulgation, publication and entry into force

Once a draft act has been approved by the Bundestag and the Bundesrat, it has to go through a number of further stages before it can enter into force.
An act that has been adopted is first printed and transmitted to the Federal Chancellor and the competent federal minister, who countersign it.
The Federal President then receives the act for signing into law. He or she examines whether the act has been adopted in accordance with the Constitution and is free of evident material contraventions of the Basic Law. Once these checks have been carried out, the Federal President signs the act and orders that it be published in the Federal Law Gazette (Bundesgesetzblatt).
At this point, the act is promulgated. Should no specific date be mentioned in the act for its entry into force, this occurs on the 14th day after the date of publication of the Federal Law Gazette in which it was printed.

Means of resolution of conflicts between different legal sources

The Basic Law governs the issue of any conflict between federal and Land law. The fundamental rule is laid down in Article 31 of the Basic Law: 'Federal law shall take precedence over Land law'. This principle applies irrespective of the hierarchical status of the conflicting legal rules of law so that, for example, a federal statute will prevail over the constitution of a Land.
Otherwise, conflicts may be resolved based on the hierarchical status of the conflicting rules of law. In the case of rules of law that formally have the same status in the hierarchy, the aspect of specificity (*lex specialis*) or the chronology of their enactment *(lex posterior*) may be taken into account.

Legal databases (with appropriate links)

Gesetze im Internet (online laws)

The Federal Ministry of Justice and the Federal Office of Justice publish almost all current federal law online. This information is available free of charge for those interested. Legislation and statutory instruments can be accessed in their current versions. They are consolidated on a continuous basis by the documentation centre at the Federal Office of Justice.
Laws published in German may be used freely in all the formats provided. The legal texts that can be accessed online are not the official versions. These can only be found in the paper edition of the Federal Law Gazette.

Can it be accessed free of charge?

Yes.

In which languages is it available?

Laws are made available in German. English translations are provided in many cases.

What are the available search criteria?

1. Title search

It is possible to perform a search limited to the words contained in the long or short title and the official abbreviations of all available laws. Two different operators can be used:

AND operator:

A search is performed for documents in which all the entered words appear.

OR operator:

A search is performed for documents in which at least one of the entered words appears.

2. Full-text search

It is also possible to perform a keyword search of all available legal texts. Here again two different operators can be used:

AND operator:

A search is performed for documents in which all the entered words appear.

OR operator:

A search is performed for documents in which at least one of the entered words appears.

Rechtsprechung im Internet (online case-law)

Since 2010 the Federal Ministry of Justice and the Federal Office of Justice have published selected rulings by the Federal Constitutional Court, the federal supreme courts and the Federal Patent Court online. This information is available free of charge for those interested. The rulings are anonymised and, in principle, are published in unabridged form. The database is updated daily.

Rulings may be used freely in all the formats provided.

Can it be accessed free of charge?

Yes.

In which languages is it available?

Rulings are made available in German.

What are the available search criteria?

1. 'Simple search'

The standard search ('simple search') allows you to perform a full-text search of all rulings published by the Citizens' Helpdesk (Bürgerservice). Where possible, the user's entries are assigned to certain metadata and the spellings are standardised. After the search has been performed, the search terms are displayed underneath the search form together with the number of hits. An input field is available where you can enter almost all the specific search criteria that can be used with an internet search engine.

Possible hits are suggested automatically in a list while the search term is being entered. After the user has started entering a search criterion, text and other search terms appear in the automatically generated suggestion list and can be adopted directly into the search mask from there. The system also recognises and highlights input errors. The quick search function interprets the entries and offers alternative spellings via the suggestion list (the 'Did you mean?' function).

Search entries are linked by an 'and' by default; the user does not need to enter the word 'and'. An intersection search is performed automatically for search criteria that have been entered one after another. By entering the operators 'OR' or 'NOT', the user can specify whether the searched documents can be included or excluded. The input sequence of the search terms is retained when the search terms are presented. OR or NOT relationships are presented separately in the list of search terms.

2. 'Advanced search'

The advanced search function offers the user the possibility of relating individual search criteria to each other across all documents in a differentiated way. In addition to the full-text search, the advanced search allows a metadata search based on the following search criteria:

Court

Legal provision

Date

Document reference number/ECLI

Verwaltungsvorschriften im Internet (online administrative regulations)

Under the overall responsibility of the Federal Ministry of the Interior, the Federal Government, in a joint project with juris GmbH, provides a comprehensive online database containing current administrative regulations issued by the highest federal authorities. This information is available free of charge for those interested. The database contains 'living documents', i.e. the government departments update the documents made available on an ongoing basis. New administrative regulations and administrative regulations that are being revised can be added at any time by juris GmbH.

Administrative regulations are not laws. They are abstract, general regulations within the administrative organisation and are issued by higher-level administrative bodies or superiors to subordinate bodies or employees for the purpose of specifying the organisation and actions of the administration concerned. Further details on individual administrative regulations can be found, if required, on the websites of the federal ministry within whose area of responsibility the matter in question falls.

Can it be accessed free of charge?

Yes.

In which languages is it available?

Administrative regulations are made available in German.

What are the available search criteria?

1. Title search

It is possible to perform a search limited to the words contained in the long or short title and the official abbreviations of all available administrative regulations. Two different operators can be used:

AND operator:

A search is performed for documents in which all the entered words appear.

OR operator:

A search is performed for documents in which at least one of the entered words appears.

2. Full-text search

It is also possible to perform a keyword search of all available legal texts. Here again two different operators can be used:

AND operator:

A search is performed for documents in which all the entered words appear.

OR operator:

A search is performed for documents in which at least one of the entered words appears.

Justizportal des Bundes und der Länder (federal and state justice portal)

The Federal Ministry of Justice and the administrations of the Länder make legal texts available online for interested citizens. A charge applies in some cases. There are also some differences in the search criteria.

Other legal databases

Bundesgesetzblatt (Federal Law Gazette)

The Federal Law Gazette is published in printed form and electronically via the following link: https://www.bgbl.de/xaver/bgbl/start.xav The printed version is binding.

Bundesanzeiger (Federal Gazette)

The Federal Gazette is published electronically via the following link: https://www.bundesanzeiger.de/pub/de/amtlicher-teil
The electronic version is binding.
Dokumentations- und Informationssystem für Parlamentarische Vorgänge (documentation and information system for parliamentary business)
Last update: 04/05/2023
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National legislation - Estonia

This page provides you with information on the Estonian legal system and an overview of Estonian law.

Sources of law

Estonia is part of the Continental European legal system (civil law system). The most important sources of law are legal instruments such as the Constitution, European Union law, international agreements, Acts and Regulations.

Legal interpretations given by the highest court – the Supreme Court – and comments by experts also serve as reference points (e.g. the commented edition of the Constitution). Court judgments do not create rights, and in general judgments handed down by higher courts are not binding on lower courts. However, the Supreme Court, which is also the court of constitutional review, is authorised to declare legal instruments invalid if they are not in accordance with the Constitution or with legal instruments taking precedence over them. When addressing particular cases, no court may apply such an instrument, and the courts are authorised not to apply any legal instrument that is in conflict with the Constitution. The Supreme Court, as the court of constitutional review, then examines the case further and is authorised to declare any such instrument unconstitutional (but not invalid).

Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system.

Types of legal instruments – description

Legal instruments are divided into instruments of general application, i.e. legislative acts, and instruments of individual application, i.e. implementing acts.

Instruments of general application

Constitution – in accordance with Section 3(1) of the Constitution, State authority is exercised solely pursuant to the Constitution and Acts which are in conformity with it.

Act – in accordance with Section 65 of the Constitution, Acts are adopted by the Estonian Parliament (the *Riigikogu*), in which legislative power is vested. Acts are adopted in accordance with the Constitution and are published in the prescribed manner in *Riigi Teataja* (the State Gazette). Only Acts that have been published are enforceable.

Decree – a legal instrument having the force of law. Under Section 109 of the Constitution, if it is impossible to convene Parliament, the President of the Republic may, in the event of urgent national need, issue Decrees having the force of law. Such Decrees must be countersigned by the President (speaker) of the Parliament and the Prime Minister. Under the Constitution, the President may issue:

special decrees in the event of urgent national need and if it is impossible to convene Parliament;

emergency decrees in the event of urgent national need, where the Government has declared a state of emergency and if it is impossible to convene Parliament or there is not enough time for Parliament to be convened.

A Decree issued by the President of the Republic enters into force on the tenth day following its publication in *Riigi Teataja*, except as otherwise provided in the Decree.

Once Parliament has convened, the President of the Republic lays the Decrees before Parliament, which then promptly adopts an Act to approve or repeal them. Under Section 110 of the Constitution, the President of the Republic may not use a Decree to enact, amend or repeal the Constitution, the Acts referred to in Section 104 of the Constitution, Acts establishing national taxes or the State budget.

Regulation – in accordance with Sections 87 and 94 of the Constitution, the Government of the Republic and Ministers are authorised to issue Regulations on the basis of and for the purpose of complying with an Act. In order to deal with issues of local importance or in cases laid down in an Act, local government councils are also authorised to issue Regulations. In addition, Regulations may be issued by the President of *Eesti Pank* (the Bank of Estonia), the Auditor General and the councils of public universities. Regulations may be issued only on the basis and within the scope of the powers laid down in an Act.

The Government of the Republic and the Ministers are authorised to issue Regulations on the basis of and for the purpose of complying with an Act. Regulations enter into force on the third day following their publication in *Riigi Teataja*, except as otherwise provided in the Regulation.

Instruments of individual application

Administrative Order – an individual administrative act by which a public-law administration decides on and organises individual legal issues. In accordance with Section 87(6) of the Constitution, the Government of the Republic issues Administrative Orders on the basis of and for compliance with an Act. The Prime Minister, county governors and local governments are also authorised to issue Administrative Orders.

Decision – an individual administrative act issued on the basis of administrative challenges or appeals or by which sanctions are imposed. Decisions are also adopted by Parliament, local government councils, the National Electoral Committee and the courts.

Order – in accordance with Section 94 of the Constitution, Ministers issue Orders on the basis of and for compliance with an Act. An Order includes a general mandatory code of conduct for issues relating to service in a Ministry or for determining the structure and organising the operations of State bodies operating under the jurisdiction of a Ministry.

Hierarchy of legal instruments

The hierarchy of legal instruments is as follows: the Constitution, European Union law, international agreements, Acts and Decrees, Government of the Republic Regulations and Regulations issued by Ministers. Besides legal instruments of general application, there are also legal instruments of individual application that are issued on the basis of an Act and are located in the hierarchy below Acts and Regulations. The legal instruments at each level must be in accordance with those at a higher level.

Institutional framework

Institutions responsible for the adoption of legal instruments

Estonian institutional organisation follows the principle of the separation and balance of powers (Section 4 of the Constitution).

Legislative power rests with Parliament. Under Section 103 of the Constitution, the right to initiate legislative proposals rests with Members of Parliament, Parliamentary political groups, Parliamentary committees, the Government of the Republic and the President of the Republic. However, the President of the Republic may only initiate amendments to the Constitution. Parliament debates draft legislation and decides whether to adopt it as an Act or reject it.

On the basis of a decision taken by an absolute majority of its Members, Parliament has the right to make a proposal to the Government of the Republic for draft legislation desired by Parliament to be initiated.

Parliament has the right to put a draft Act or an issue of national importance to a referendum. The outcome of the referendum is decided by a majority vote of those who take part. Acts adopted by means of a referendum are promptly promulgated by the President of the Republic. Decisions taken in referenda are binding on all public authorities. If a draft Act put to a referendum does not receive a majority of votes in favour, the President of the Republic declares extraordinary Parliamentary elections. Issues concerning the budget, taxes, the State's financial obligations, the ratification or denunciation of international agreements, the declaration or lifting of a state of emergency and national defence may not be put to a referendum.
Executive powers are exercised by the Government of the Republic. In most cases draft legislation is put before Parliament by the Government of the Republic. The draft Acts are submitted to the Government by the ministries, and there must have been a prior consultation stage between the ministries.
The Chancellor of Justice and the Auditor General participate in and have the right to speak at Government meetings. Their suggestions are not binding on the Government, but their recommendations and suggestions are often taken into account. If the Chancellor of Justice and the Auditor General believe it necessary, they may put their suggestions directly to the appropriate Parliamentary committee that is dealing with the draft legislation. In accordance with Section 139 of the Constitution, the Chancellor of Justice analyses all suggestions made to him or her concerning legislative amendments, the adoption of new Acts and the work of government bodies and, where necessary, submits a report to Parliament. If the Chancellor of Justice finds that a legal act adopted by the legislature, the executive branch or a local authority contradicts the Constitution or an Act, he or she makes a proposal to the body that adopted the act to bring it into conformity with the Constitution or the Act within 20 days. If the act is not brought into conformity with the Constitution or the Act within that time, the Chancellor of Justice makes a proposal to the Supreme Court for it to be declared invalid on the basis of Section 142 of the Constitution.
The President of the Republic promulgates Acts adopted by Parliament or refuses to do so. In the latter case, the President of the Republic returns the Act, together with his or her reasons, to Parliament for a new debate and decision.
The Ministry of Justice publishes adopted Acts promulgated by the President of the Republic in the Estonian official publication *Riigi Teataja* (State Gazette).

Decision-making process

The legislative process in the Estonian Parliament comprises the following stages:
initiation of draft legislation;
examination of draft legislation;
adoption of draft legislation.

Initiation

In accordance with Section 103 of the Constitution, the Government of the Republic, Members of Parliament, Parliamentary political groups, Parliamentary committees and the President of the Republic have the right to initiate legislative proposals. However, the President may only initiate draft amendments to the Constitution. Draft legislation must meet the technical rules adopted by the Board of the Parliament and the legislative and technical rules adopted by the Government of the Republic. The Board of the Parliament directs draft legislation to the permanent Parliamentary committee responsible for the draft.

Examination of draft legislation

Draft legislation is prepared for the plenary session of Parliament by a permanent Parliamentary committee (the Legal Affairs Committee, the Constitutional Committee, the Economic Affairs Committee, etc.). On the proposal of the committee responsible, the draft legislation is added to the agenda for the plenary session of Parliament.
In accordance with the *Riigikogu* Internal Rules and Rules of Procedure Act, the first reading of draft legislation must take place within seven Parliamentary plenary working weeks of it having been accepted. Draft Acts are debated by the Parliamentary plenary session at three readings, at the first of which there is a debate on the general principles behind the draft Act. If no motions for the draft to be rejected are made by the committee responsible or by any political group during the negotiations, the first reading ends without a vote. Following the first reading, Members of Parliament and the Parliamentary committees and political groups have 10 working days to put forward amendments. If the committee responsible so proposes, the President of the Parliament may set a different deadline for putting forward amendments.
The committee involves in the discussion about a draft all relevant stakeholders who were involved in preparing the draft and who wish to participate in the discussion.
The committee responsible reviews all proposed amendments and decides whether to take them into account when drawing up the new text of the draft. The committee draws up a new version of the draft for the second reading, including all the accepted amendments and any amendments made by the committee itself. It also draws up an explanatory memorandum for the second reading, which includes information relating to the processing of the draft legislation, such as the reasons for accepting or rejecting proposed amendments and the positions of the person who initiated or submitted the draft legislation, experts involved in the process and other persons.
Draft legislation is put on the agenda for a second reading on the proposal of the committee responsible. On the proposal of the Board of the Parliament, the committee responsible or the person who initiated the draft legislation, Parliament suspends the second reading of the draft legislation without a vote. If a political group proposes that the reading be suspended, it is put to a vote. If the second reading of draft legislation is suspended, amendments may still be put forward. If the second reading in Parliament is not suspended, it is deemed to have ended and the draft legislation is sent for a third reading.
A draft Parliamentary Decision may be put to a vote following the end of the second reading.
The committee responsible draws up the final text of the draft legislation for the third reading, making linguistic and technical improvements once the second reading has ended. The committee may draw up an explanatory memorandum for the third reading, providing an overview of the changes made after the second reading ended. In the third reading of draft legislation, negotiations are opened during which representatives from the political groups present statements. At its third reading, draft legislation is put to a final vote.

Adoption

Acts and Parliamentary Decisions are adopted by means of an open vote in Parliament. A final vote is taken during the third reading of draft Acts. The number of Members of Parliament required to vote in favour for an Act to be adopted is laid down in Sections 73 and 104 of the Constitution, in accordance with which Acts are categorised as:
constitutional Acts, i.e. Acts requiring an absolute majority of the Members of Parliament (more than half of the 101 Members of Parliament must vote in favour of adopting the Act); or
ordinary Acts, i.e. Acts requiring a simple majority (more Members of Parliament must vote in favour of adopting the Act than against it).
The following Acts may be adopted or amended only by an absolute majority of the Members of Parliament:
the Citizenship Act;
the *Riigikogu* Election Act;
the President of the Republic Election Act;
the Local Government Council Election Act;
the Referendum Act;
the *Riigikogu* Rules of Procedure Act and the *Riigikogu* Internal Rules Act;

the Act on the Remuneration of the President of the Republic and of Members of the *Riigikogu*;
the Government of the Republic Act;
the Act on the Initiation of Court Proceedings against the President of the Republic and Members of the *Riigikogu*;
the Act on the Cultural Autonomy of National Minorities;
the State Budget Act;
the *Eesti Pank* Act;
the National Audit Office Act;
the Court Organisation Act and Acts concerning court proceedings;
Acts pertaining to foreign and domestic borrowing and the proprietary obligations of the State;
the State of Emergency Act;
the Peace-Time National Defence Act and the War-Time National Defence Act.
Once an Act or Parliamentary Decision has been adopted, it is signed by the President of the Parliament, or in his or her absence by the Vice-President of the Parliament who chaired the session, at the latest on the fifth working day following its adoption.

Promulgation

After an Act is adopted and signed, it is sent to the President of the Republic to be promulgated. The President of the Republic may refuse to promulgate an Act adopted by Parliament and may within 14 days of receiving it return it, together with his or her reasons, to Parliament for a new debate and decision. If an Act that has been returned by the President of the Republic is adopted by Parliament for the second time in unamended form, the President of the Republic either promulgates the Act or proposes that the Supreme Court declare the Act unconstitutional. If the Supreme Court finds that the Act complies with the Constitution, the President of the Republic must promulgate it.
The Act enters into force on the tenth day after its publication in *Riigi Teataja*, unless provided otherwise in the Act itself.

Publication of legal instruments

The most important legal instruments and international agreements are published in *Riigi Teataja*. Acts and Regulations gain legal force only once they have been published in *Riigi Teataja*.
Riigi Teataja is Estonia's official online publication and the central database of legal instruments. Since 1 June 2010 *Riigi Teataja* has been published only on the internet, as an official online publication.
Since 1 January 2011, *Riigi Teataja* has been published by the Ministry of Justice.

Brief description of content

Acts, Regulations, international agreements, Parliamentary Decisions and Government of the Republic Orders are published in *Riigi Teataja*, and other important information such as translations of legal instruments and procedural information concerning the draft versions of instruments may be made available there.
The majority of instruments adopted since 1990 are available in *Riigi Teataja*.
Since 1 June 2002, official consolidated versions of Acts, Decrees of the President of the Republic, Government Regulations and Orders, ministerial Regulations, Regulations of the President of *Eesti Pank* and National Electoral Committee Regulations have been published in *Riigi Teataja*. Consolidated versions of Parliamentary Decisions have been published since 1 June 2010 and consolidated versions of local authority regulations since the end of 2011. Each time such instruments are amended, an updated and consolidated version containing the amendments is drawn up and published at the same time as the amending instrument, together with information on when it will be in force. The consolidated texts are official and they can be relied upon when enforcing the law. They have legal force.
All published legal instruments are stamped digitally when they are published. Anyone is able to check the digital stamp, which ensures that the instrument has remained unaltered since its publication. All published instruments are also linked to a time stamp, which enables any cases of unauthorised processing to be detected.
You can view the consolidated versions that are/were in force on any particular date. You can also access future versions of these instruments, where they are known. Each consolidated version is linked to the previous and subsequent versions. This allows you to move chronologically from one version of the consolidated text to the next and vice versa. You have the opportunity to compare different consolidated versions of the same instrument to see what amendments have been made.
The links present in the consolidated version allow you to open the Regulations enacted on the basis of the Act and to move from those Regulations to the provisions of the Act on the basis of which the Regulations are enacted.
A reference to the procedural information is added to instruments published in *Riigi Teataja*, which helps you to find the explanatory memoranda (links to the consultation database and to Parliamentary proceedings), links with European Union legislation, translations and other additional information necessary to understand the legal instrument.
On the *Riigi Teataja* website you can search for the case law of the county courts, district courts and Supreme Court. Information is also available about the time and place of court hearings.
Summaries and overviews of Supreme Court rulings and judgments passed by the European Court of Human Rights (ECHR) are also published. The summaries have been systematised, and you can search the summaries of Supreme Court rulings by keyword or by reference to legal instruments. ECHR judgments are searchable by Article.
Various news items relating to Acts and the law in general are also published in *Riigi Teataja*.
On 30 October 2013 the English *Riigi Teataja* website was launched. This contains up-to-date English translations of the consolidated texts of Acts. English translations of the consolidated texts of all Acts (with the exception of ratification Acts) have been available since the end of 2014. Acts are translated by sworn translators. The process of translating the texts into English began in 2011 and was organised by the Ministry of Justice. Although the translations do not have legal force, they are kept up-to-date. Anyone can have the latest translations sent to their email address by signing up for the My RT service.
There is also a search function for draft legal instruments which lets you search the various procedural stages through which adopted instruments have passed and draft instruments are still passing. From there you can access all the information concerning the legislative procedures and the relevant documents that have been drawn up. You can also ask to be notified of the passage of a draft legal instrument from one procedural step to the next. This will be sent to your email address if you sign up for the Estonian-language *Minu RT* service.
By using the *Minu RT* service, everyone has the opportunity to set up their own user portal in which they can add instruments to their collection of links and ask via the portal to be informed by email of new instruments and any new additional information.

Is access to the database of Estonian legislation free of charge?

Access to *Riigi Teataja* and to all legal information services is **free of charge** for users.

Free access to the electronic *Riigi Teataja* is granted at local governments and public libraries (approximately 600) to anyone interested. Assistance is also provided in searching for the relevant instruments. Users must be permitted to print up to 20 pages free of charge.

History of the database of Estonian legislation

Riigi Teataja is the official publication of the Republic of Estonia and has been published since 27 November 1918. Publication of *Riigi Teataja* was suspended in 1940 and resumed in 1990.

Riigi Teataja has been published on the internet since 1996, and on 1 June 2002 the online version was given official status.

Since 1 June 2010 *Riigi Teataja* has been published only on the internet, as an official online publication. It has not been published on paper since then.

In November 2010 a new, more user-friendly IT system was introduced offering more legal information. The IT system was developed under the guidance of the Government Office using funding from the European Regional Development Fund.

Summaries of Supreme Court rulings and ECHR judgments, various news items concerning the law in general and information on case-law and court hearings have been available on the *Riigi Teataja* website since 20 January 2012.

A search function for draft instruments was introduced at the end of 2012.

As of 2013, the up-to-date consolidated versions of all Regulations adopted by local authorities are published in *Riigi Teataja*.

Since 24 September 2013, all legal instruments are given the issuing body's digital stamp and a time stamp when they are published in *Riigi Teataja*.

The English-language *Riigi Teataja* website was launched on 30 October 2013.

A connection will be created to the European N-Lex portal as part of the process of developing the new electronic *Riigi Teataja* IT system.

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National legislation - Ireland

This page gives you information on the legal system in Ireland.

Legal Order

1. Legal Instruments/Sources of Law

1.1. National Sources

The Constitution of Ireland (in the Irish language, Bunreacht na hÉireann), which came into force on 29th December 1937, is the basic or fundamental law in the State. It establishes the institutions and apparatus of State and provides for the tripartite separation of powers into Executive, Legislative and Judicial. It also guarantees fundamental rights which have been subjected to rigorous interpretation and extension by the courts.

Primary legislation consists of Acts adopted by the Oireachtas (Parliament), consisting of the President of Ireland, Seanad Éireann (Upper House) and Dáil Éireann (Lower House). Primary legislation is divided into: Acts to amend the Constitution, which must be accepted by the people in a Referendum to become effective; Public General Acts, which are of general application; and Private Acts, which are directed towards the behaviour of a particular individual or group of individuals.

Secondary legislation is a mechanism by which the Oireachtas may delegate legislative powers to a Minister of Government or a particular authority. The power to make delegated legislation must be expressly conferred by primary legislation and stringent conditions govern its exercise – the principles and policies to be implemented must be clearly and unambiguously stated in the parent act and strictly followed by the authority making the secondary legislation. Statutory Instruments are the most common form of secondary legislation but they can also take the form of Regulations, Orders, Rules, Schemes or Bye-laws.

By virtue of Article 50 of the Constitution, pre-1922 laws relating to Ireland (e.g. Acts of the United Kingdom Parliament) and measures adopted by the Irish Free State (1922 – 1937), which are not inconsistent with the Constitution remain in force. Many of the pre-1922 laws which had no ongoing relevance to Ireland were repealed by the Statute Law Revision Acts 2005-2012.

The Irish legal system is a common law system and this means that Judge-made law is an important source of law. Under the doctrine of precedent, or stare decisis, a court is bound to follow decisions in former cases, particularly decisions of higher courts. However, this is a policy and not a binding unalterable rule. This body of law includes rules, general principles, canons of construction and maxims. The doctrine of stare decisis draws a distinction between ratio decidendi, the binding part of a decision which must be followed, and obiter dictum, observations made by a judge in a case on issues which were present, or not material, in the case, or which arose in such a manner as not to require a decision. The obiter dictum is not binding in future cases but may be persuasive.

1.2. European Union Law

As Ireland is a member of the European Union (EU), EU law is an important part of the domestic legal order of the State. The obligations of EU membership entail that the Constitution and other national laws are subordinate to EU law whenever the Community has competence. An amendment of the Constitution was required to authorise the State to join the EU and to avoid a clash between provisions of the Constitution and EU law.

1.3. International Sources

Ireland is a signatory to many International Agreements and Treaties and is a member of many International Organisations. The Constitution provides that Ireland accepts the generally recognised principles of international law as governing relations between States.

Ireland is a dualist State and in order to have formal legal standing within the State, as opposed to between States, International Agreements must be incorporated into domestic law by the Oireachtas.

Ireland is a signatory to the European Convention on Human Rights since 1953 and since then, by way of the State's international legal obligations, citizens could rely upon its provisions before the European Court of Human Rights. Domestic legal effect has been given to the Convention's provisions by way of the European Convention on Human Rights Act 2003 which incorporated the ECHR into Irish law.

2. Other Sources

In the absence of formal legal rules, scholarly writing may be cited by counsel during a case and by a court in reaching its decision. Although there is debate as to whether it should apply at all and its influence may have waned in recent years, natural law and natural rights have been relied upon by the Courts in interpreting the Constitution and in the enumeration of constitutional rights not specifically provided for in the text of the Constitution.

3. Hierarchy of Legal Sources

The Constitution is at the apex of Ireland's legal system. Legislation, governmental and administrative decisions and practice may be reviewed against the Constitution for compliance.

The Constitution provides however, that it will not invalidate any acts or measures which are necessitated by membership of the EU. This is provided for in Article 29.4.6 of the Constitution. Thus EU law takes precedence over all national laws including the Constitution. Due to the fact that EU law provides that

the methods of its implementation are to be determined by national procedural requirements, instruments implementing EU law must still be in accordance with procedural Constitutional requirements.
The European Convention on Human Rights Act 2003 enables individuals to rely on the provisions of the ECHR before Irish Courts. The ECHR has been incorporated at sub-constitutional level and the Constitution retains primacy. The Act requires that the courts interpret and apply national provisions, as far as is possible, in accordance with the precepts contained in the ECHR. If domestic legislation is not in accordance with the ECHR a Declaration of Incompatibility will issue.
The courts have held that principles of customary international law form part of domestic law by virtue of Article 29.3 of the Constitution, but only to the extent to which they do not conflict with the Constitution, legislation or common law. International Agreements may only be ratified if they are in accordance with the Constitution, otherwise a referendum will be required.
Legislation can be replaced or amended by subsequent legislation. Secondary legislation may be superseded by primary legislation, as may the power of delegation to make secondary legislation, but secondary legislation can not override primary legislation. The courts may strike down legislation on the ground that it is invalid having regard to the provisions of the Constitution (post-1937 legislation) or that it is inconsistent with the Constitution (pre-1937 legislation). There is a presumption that post-1937 legislation is consistent with the Constitution.
Decisions of courts can be superseded by legislative or constitutional enactments and subsequent decisions of courts of equal or higher rank.

4. Entry into Force of Supranational instruments

The Constitution as originally drafted was not compatible with the European Community law. For example, it provided that the Oireachtas was the sole legislating body in the State. For this reason a provision was inserted into the Constitution providing that it will not invalidate any law, act or measure necessitated by membership of the EU. However, it has been held that if the scope and objectives should change, for example, by way of a new Treaty, this must be put by way of referendum to the people and, if accepted by the people, a provision will be inserted confirming that the State may ratify such Treaty.
If EU law requires transposition by the State this is implemented by primary legislation or more usually by Statutory Instrument made by the Government or a Government Minister.
According to the Constitution, international agreements will become a part of domestic law if the Oireachtas so determine. This will usually be by way of an Act and an example is the European Convention on Human Rights Act. 2003. by which the Convention became incorporated into domestic law, with the result that individuals may rely on its provisions before domestic courts.

5. Authorities empowered to adopt rules of law

The Constitution provides that the Oireachtas, which is comprised of the Dáil (Lower House) and Seanad (Upper House) and the President, has ‘the sole and exclusive power of making laws for the State’ subject to the obligations of Community membership as provided for in the Constitution. Proposed legislation in the form of a Bill must be signed into law by the President in order to take effect and if the President is in doubt as to the constitutionality of the Billof proposed legislation he may convene the council of state, and if necessary refer the Billit to the Supreme Court for determination pursuant to Article 26 of the Constitution. .
As mentioned above the Oireachtas may delegate the power to make legislation to a Minister of Government or other authority and this power is strictly circumscribed by the delegating instrument. EU Directives are usually implemented by way of Statutory Instrument made by a Minister. The power to legislate may be delegated to a variety of bodies such as Government Ministers, statutory boards, semi-state bodies, regulatory bodies, expert bodies and local authorities.
Under the Constitution the Government are responsible for conducting external relations and may sign International Treaties and Agreements and join International organisations subject to constitutional requirements.
Under the common law system Judge-made law is binding.

6. Process of adoption of rules of law

6.1. Constitution

The first stage in making an amendment to the Constitution, under Article 46, is to initiate a Bill in the Dáil. This Bill must be passed by both Houses of the Oireachtas and must then be submitted in a referendum to the people for their affirmation or rejection. According to Article 47(1) the proposal will be held to have been approved by the people if a majority of the votes cast are in favour of its enactment into law. Such Bill must be expressed as ‘An Act to amend the Constitution’ and must not contain any other proposal. If approved by the people, the President must sign the Bill and it ‘shall be duly promulgated by the President as a law.’
Article 47(2) provides that a proposal put to referendum which is not to amend the Constitution will be vetoed where a majority of votes are against the proposal and the votes cast against the proposal amount to not less than one-third of the voters on the register.

6.2. Legislative procedure

The first step in making primary legislation is usually for a Bill to be initiated in either House of the Oireachtas. Every Bill initiated in the Dáil must be sent to the Seanad for consideration and amendments may be made which the Dáil is obliged to consider. However, if a Bill is initiated and passed in the Seanad, and is subsequently amended by the Dáil, it is deemed to have been initiated by the Dáil and must return to the Seanad for consideration.
Before a Bill is promulgated, it must be approved by both Houses of the Oireachtas and must be signed by the President into law. During the course of its legislative passage, a Bill may be subjected to amendments in the Dáil and the Seanad. However, the Constitution consolidates the supremacy of the popularly elected Dáil; Article 23 provides that where the Seanad has rejected or amended a Bill contrary to the wishes of the Dáil it is open to the Dáil to pass a resolution within 180 days deeming the Bill to have been passed by both Houses.The Seanad has the power to delay a Bill by up to 90 days but does not have the power to prevent it becoming an Act or to change it unless the Dáil agrees.
The vast majority of Bills are initiated in Dáil Eireann by a Government Minister.
Money Bills (e.g. Bills that deal with the imposition, repeal, remission or alteration or regulation of taxation and Bills that involve a charge on public funds) can only be initiated and passed by Dáil Éireann. This type of Bill is sent to the Seanad for ‘recommendations’.
The final step in the legislative procedure is for the President to sign the Bill into law. The President may, following consultation with the Council of State, refer a Bill, or a particular section of a Bill, to the Supreme Court for determination of constitutionality. This is known as an Article 26 Reference. Once the Supreme Court decides that the Bill is constitutional, it can never again be challenged on constitutional grounds in the courts and the President is required to sign it in into law. If it is determined that the Bill is repugnant to the Constitution, the President must decline to sign it into law.

6.3. Secondary Legislation

It is commonly provided for in parent statute that the delegated legislation it authorises may be annulled or approved by the Oireachtas. These provisions generally provide that instruments be ‘laid before’ either or both Houses of the Oireachtas who may annul it within a stated period of time. All secondary legislation implementing EU measures is subject to this annulment mechanism. Following enactment, certain statutory instruments must be deposited in designated libraries and a notice of their enactment must be published in the official Irish State gazette Iris Oifigiúil.

6.4. International Law

The government may sign International Treaties or Agreements or join International Organisations, however it has been held that the government may not do so if it were to fetter the exclusive law-making power given to the Oireachtas or otherwise breach the Constitution. For this reason, the courts have held that Treaties changing the scope and objectives of the European Union may not be assented to by the Government unless accepted by the people in a constitutional referendum.

7. Entry into force or national rules

Amendments to the Constitution enter into force after they have been accepted by the people and the Bill proposing the amendment has been signed by the President.

A Bill becomes law on the day that it is signed by the President and shall come into effect on that day unless the contrary is provided for in the Act. The President does not usually sign a Bill earlier than the 5th day or later than the 7th day after it has been presented. An Act may specify the date from which it is to take effect or may provide that a Minister may make a 'commencement order' (secondary legislation) to bring the Act, or part of the Act, into force. The President is obliged to promulgate a Bill by publication of a notice in Iris Oifigiúil stating that it has become law.

Secondary legislation will specify the date on which it is to come into operation.

Court decisions generally have force from the day on which they are made.

8. Means of resolution of conflicts between difference legal sources

It is for the courts to determine any conflicts between different legal rules or sources.

Subject to the superior position of EU law, the Constitution is the fundamental law of the State and it takes precedence in any conflict with other laws.

According to Article 34 of the Constitution, individuals may challenge the constitutional validity of legislation before the High Court. Such a decision may be appealed to the Supreme Court. Individuals may also claim that their constitutional rights or constitutional procedure have been breached by the actions of the State.

It is presumed that legislation made after the adoption of the 1937 Constitution is in accordance with the Constitution until the contrary is established.

Circumstances may arise in which provisions of the Constitution, particularly fundamental rights provisions, may conflict to some degree. The courts have employed several mechanisms to reach decisions in these cases including literal or grammatical interpretation, the historical approach, the purposive or harmonious approach, the doctrine of proportionality, the hierarchy of rights approach and the commitment to natural law and natural rights approach.

There have been instances when, consequent upon an unpopular constitutional determination or interpretation by the Courts, a referendum has been held to amend the Constitution.

If an individual claims that his or her rights under the European Convention on Human Rights have been breached by legislation he or she may seek a Declaration of Incompatibility from the courts.

EU law enjoys constitutional immunity as the Constitution provides that it will not invalidate any acts or measures necessitated by membership, although the means of implementing these acts or measures must abide by the Constitution.

Aside from constitutional questions, the validity of delegated legislation will be judged by its compliance with its parent statute.

Further information on the Irish legal system, legislation and the Constitution can be found at the following sites:

- https://www.gov.ie/en/organisation/department-of-the-taoiseach
- https://www.courts.ie/judgments
- https://www.irishstatutebook.ie
- http://www.bailii.org

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Jekk jogħġbok innota li l-verżjoni bil-lingwa oriġinali ta' din il-paġna el ġiet emendata reċentement. Il-verżjoni tal-lingwa li qed tara bħalissa attwalment qed tiġi ppreparata mit-tradutturi tagħna.

National legislation - Greece

This page provides you with information on the legal system in Greece.

Sources of law

Legislation

Customary law

Generally accepted rules of international law

European Union law

International conventions

Case law

Types of legal instrument - description

The Constitution

Statute *(Τυπικός νόμος)*

Other acts with legislative content *(Πράξεις νομοθετικού περιεχομένου)*

Presidential orders *(Προεδρικό διάταγμα)*

Administrative measures *(Διοικητικές πράξεις)*

Founding treaties of the EU

EU regulations

EU directives

International conventions

Hierarchy of norms

The Constitution prevails over all domestic legal instruments and is followed, in order of precedence, by statute law, presidential orders, and administrative measures. The founding treaties of the European Union are at the same formal level as the Constitution, while other international legal instruments prevail over all domestic legal instruments apart from the Constitution.

Institutional framework

Institutions responsible for enacting legal rules

When it becomes necessary to amend or supplement existing legislation, or to lay down new rules of law, or to incorporate rules of international law into domestic legislation:
the responsible minister asks a special legislative committee to draft a bill.

The legislative process

The draft bill prepared by the special legislative committee is sent to the central legislative committee in the General Secretariat to the Government, which ensures that it is properly drafted, and may make other observations regarding such things as constitutionality and compliance with international law.
The bill is then laid before Parliament, with an explanatory memorandum setting out the reasoning and purpose of the provisions proposed. If the bill would involve spending from the State budget, a special report on expenditure and a comparative report on expenditure are drawn up by the State General Accounting Office *(Γενικό Λογιστήριο του Κράτους).* Bills must also be accompanied by a report evaluating any measures that may have to be taken in consequence, and a report on the public consultation that preceded the submission of the bill, save in exceptional cases.
The Chairman of Parliament refers the bill for consideration either by the whole house or by the standing committees or recess committees of Parliament.
Orders making provision for the implementation of Acts of Parliament are made by the President of the Republic on a proposal from the responsible ministers. Specific statutory provisions empower the administrative authorities to take measures regulating specific matters or points of local interest or of a technical or minor character.
Under Article 28 of the Constitution, international conventions, once they are ratified by Act of Parliament, are an integral part of domestic Greek law, and prevail over any earlier provision to the contrary, with the exception of the provisions of the Constitution.
EU regulations have universal validity throughout the Union; they are binding and directly effective in each Member State.
EU directives are incorporated into domestic law by statute, by Presidential order or by ministerial decision.
Within one month of the passing of an Act by Parliament it is signed by the responsible ministers and then signed and promulgated by the President of the Republic.
The Act itself will specify when it is to take effect. Otherwise, in accordance with Article 103 of the Introductory Act to the Civil Code, it takes effect 10 days after it is published in the Government Gazette *(Εφημερίδα της Κυβερνήσεως).*
An Act ratifying a Convention enters into force, as a general rule, upon publication of the Act in the Government Gazette, and the Convention takes legal effect on the date specified in the Convention.
The website of the Greek Parliament shows all Acts passed from 22 October 1993 onward. Furthermore, on the website of the National Printing House *(Εθνικό Τυπογραφείο),* you can use the 'Search' section *('Αναζητήσεις')* to find lists for each year since 1890 showing Acts passed and orders made, indicating their subject matter and the details of the Government Gazette in which they were published.
The initiative in any amendment of an Act of Parliament lies with the minister who is responsible for the subjectmatter.
An Act of Parliament remains in force until such time as it is repealed by a fresh Act..

Legal databases

A complete legal database is owned and maintained by the National Printing House.
Access is free of charge (Article 7 of Act No 3861/2010, published in Government Gazette FEK A/112/13710).
A complete legal database is owned and maintained by Intracom and HOL.
Access is subject to a fee.
Website of the State Legal Council
Access is free of charge.

Related links

The Greek Parliament
The National Printing House

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National legislation - Spain

This page provides information on the Spanish legal system and a general overview of the country's legal order.

Sources of Spanish law

The sources of Spanish law are defined in Article 1 of the Civil Code (*Código Civil*):
The Spanish legal order is drawn from law, custom and the general principles of law.
Provisions that contradict another of a higher ranking are without legal validity.
Custom only applies in the absence of applicable law, provided that the custom in question is not contrary to public order or morality and is demonstrable.
Legal uses that are not merely interpretative of an expression of intent are deemed to be customs.
In the absence of law or custom, the general principles of law apply, notwithstanding their role in informing the legal order.
The legal rules contained in international treaties do not apply directly in Spain until they have become part of the internal legal order by being published in full in the Official State Gazette (*Boletín Oficial del Estado*).
Case-law complements the legal order with the doctrine established over time by the Supreme Court (*Tribunal Supremo*) in its interpretation and application of the law, custom and the general principles of law.
Spain's judges and courts, which are subject solely to the Constitution and the rule of law, are duty bound to decide on every case they hear, drawing on the established system of sources to inform that decision.

Types of legal instruments

Constitution: supreme legal order of the Spanish State, to which all public authorities and citizens are subject. Any provision or act contrary to the Constitution is without legal validity. Its content is separated into two clearly differentiated parts: a) legal doctrine and b) organic law.
International treaties: written agreements entered into between certain subjects of international law and governed by that law. They may consist of one or more related legal instruments, regardless of their denomination. Once signed and officially published in Spain, international treaties become part of the internal legal order.
Statutes of autonomy: basic Spanish institutional rules applicable to individual autonomous communities and recognised by the Spanish Constitution of 1978. They are adopted by organic law. They contain, at least, the denomination of the autonomous community; its territorial boundaries; the denominations, organisational structures and seats of the autonomous institutions; and the powers vested in them. Statutes of autonomy are not an expression of

sovereignty, nor are they a *constitution* since they do not stem from an originating constituting power (which was not vested in the territories that became autonomous communities). Rather, they owe their existence to their recognition by the State without, under any circumstances, the principle of autonomy challenging the principle of unity.
Law: Spain has various types of laws.
Organic laws: those relating to the implementation of fundamental rights and civil liberties, those adopting statutes of autonomy and the legal order governing the general electoral system, and others provided for in the Constitution.
Ordinary laws: those governing matters not regulated by organic laws.
Legislative decrees: statutory provisions on certain matters issued by the Government by virtue of the powers delegated to it by Parliament (*Cortes Generales*).
Decree-laws: provisional legislative provisions issued by the Government in cases of extraordinary and urgent need and which do not affect the legal order governing the basic institutions of the State; the rights, duties and freedoms of citizens under Title One of the Constitution; the legal order governing the autonomous communities; or the legal order governing the general electoral system. Decree-laws must be submitted to debate and vote by the entire Congress of Deputies (*Congreso de los Diputados*) within thirty days of enactment.
Regulations: general legal rules issued by the executive authority. They rank immediately below law in the hierarchy of norms and, generally speaking, implement it.
Customs: defined as 'the set of rules derived from the generally constant repetition of uniform actions'. In order for a custom to represent an expression of collective and spontaneous intent, it must be widespread, constant, uniform and long-standing.
General principles of law: general normative statements that, without having been formally incorporated into the legal order, are deemed to form part of that order as they serve as a basis for other particular normative statements or embody in an abstract manner the content of a group of such statements. They are used to address legal shortcomings or interpret legal rules.
Case-law: constituted by two judgments — issued by the Supreme Court or, in the case of certain matters for which jurisdiction is limited to the autonomous community, by the High Court of Justice (*Tribunal Superior de Justicia*) of that autonomous community — that interpret a rule in the same way. If a judge or court diverges from the doctrine established by the Supreme Court, the judgment is not invalidated automatically but rather serves as the basis for an appeal on points of law. Notwithstanding, both the Supreme Court and the High Court of Justice in a particular autonomous community may, on substantiated grounds, diverge from the settled case-law and generate new case-law at any time.

Hierarchy of norms

Article 1.2 of the Spanish Civil Code states that 'provisions that contradict another of higher ranking shall be without legal validity'. This means that a hierarchy of norms must by necessity be established. To this end, the Spanish Constitution regulates the interrelationship between the various norms and their hierarchical and jurisdictional relationships.
Under the Constitution, the primacy of norms in Spanish law is as follows:
The Constitution.
International treaties.
The law, in the following order: organic laws, ordinary laws and rules with the rank of law (including royal decree-laws and royal legislative decrees), there being no hierarchy between them but rather distinct procedures and areas of application.
Rules issued by the executive, with their own hierarchy depending on the body that enacts them (royal decrees, ministerial orders, etc.).
In addition to this, a principle of jurisdiction is established with regard to rules issued by the parliaments of the various autonomous communities (regional government decrees, regional government orders, etc.).
Judges and courts shall not apply regulations or other provisions that contravene the Constitution, the law or the principle of a hierarchy of norms.

Institutional framework

Institutions responsible for the adoption of legal rules

Spain's institutional framework is based on the principle of separation of powers, with legislative power being vested in the Spanish Parliament and the legislative assemblies of the country's autonomous communities.
Government, both at state level and in each autonomous community, holds executive power — including the power to regulate — and on occasions exercises legislative power as delegated to it by Parliament.
Local authorities do not have legislative power, but they do wield regulatory power, which is principally exercised in the form of municipal by-laws.
Legislative initiative lies with the Government, Congress and Senate, the assemblies of the autonomous communities and, in certain cases, popular initiative.

The decision-making process

International treaties: three adoption mechanisms are available, depending on the matters regulated by the treaty.
Firstly, an organic law will authorise the signing of treaties where the exercising of jurisdiction arising out of the Constitution is vested in an international organisation or institution.
Secondly, the Government may give State consent to the signing of legally binding treaties or agreements, with the prior authorisation of Parliament, in the following cases: political treaties, military treaties or agreements, treaties or agreements affecting the territorial integrity of the State or the fundamental rights and duties set out in Title One, treaties or agreements entailing financial obligations for the tax authorities, and treaties or agreements requiring amendment or derogation of a law, or that require legislative measures in order to be implemented.
Finally, for all other matters the sole requirement is to inform Congress and the Senate as soon as the treaty has been signed.
Once signed and officially published in Spain, international treaties become part of the internal legal order. Treaty provisions may only be derogated, amended or suspended in the manner specified in the treaties themselves or in accordance with the general rules of international law. International treaties and agreements may be terminated by the same procedure as for their adoption.
Law:
Bills are approved by the Council of Ministers (*Consejo de Ministros*), which submits them to Congress with an explanation of the reasons for their introduction and the legal background necessary for Congress to make a decision on them.
In the case of autonomous communities, bills are approved by the respective councils of ministers and are submitted, on identical terms, to the legislative assembly of the autonomous community in question.
Once the bill for an ordinary or organic law has been approved by Congress, the President thereof immediately refers it the President of the Senate, who then submits it to the Senate for deliberation. The Senate has two months from the date of receipt of the bill to exercise its veto or introduce amendments. Vetoes must be approved by an absolute majority.
A bill cannot be submitted to the Monarch for assent until Congress has ratified the initial draft (in the case of a veto, this must be by absolute majority; a simple majority is sufficient once two months have passed since submission of the bill) or has voted on the amendments, accepting or rejecting them by

simple majority. The two-month period allowed to the Senate to veto or amend the bill is reduced to twenty calendar days in the case of bills declared to be urgent by the Government or by Congress.
Laws adopted by Parliament are submitted to the Monarch, who within fifteen days of adoption endorses them, enacts them and orders their publication.
Organic laws: adoption, amendment or derogation of organic laws requires an absolute majority of Congress in a final vote on the bill in its entirety.
Regulations: the procedure by which these are drawn up is as follows:
Regulations are initiated by the relevant policy-making department by preparing the corresponding bill, which is submitted with a report on the need for and aptness of the regulation, as well as a financial report containing an estimate of the attendant cost.
Throughout the preparation process it is necessary to solicit, in addition to reports, opinions and prior mandatory approvals, all studies and consultations deemed necessary to ensure the aptness and legality of the text. In every case, regulations must be accompanied by a gender-impact report on the measures they contain.
Where the provision affects citizens' legitimate rights and interests, a public hearing may be held within a reasonable time-frame of no less than fifteen working days. Therefore, when the nature of the provision so requires, it is submitted to public consultation during the above-mentioned period.
In every case, bills for regulations must be reported on by the Technical Secretariat-General (*Secretaría General Técnica*), without prejudice to the opinion of the Council of State (*Consejo de Estado*) in cases where this is legally required.
A prior report by the public authorities will be required where the regulation may affect the distribution of jurisdiction between the State and the autonomous communities.
Before regulations adopted by the Government can come into force, they must be published in full in the Official State Gazette.

Legal databases

The Official State Gazette operates a database containing all legislation published since 1960.

Is access to the databases free of charge?

Access to this database is free of charge.

Short description of contents

All gazettes published since 1960 can be consulted on the Official State Gazette website.
The website includes a search engine for legislation and announcements, together with databases of constitutional case-law (from 1980 onwards), reports and opinions of the State Legal Service (*Abogacía del Estado*) (from 1997 onwards) and opinions of the Council of State. It also includes the **recast versions** containing the main amendments made to the legislation. Finally, it offers an alert service covering legislative notifications, public announcements and consultation of information and documentation.

Related links

Database of Spanish legislation

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National legislation - France

In this section you will find an overview of the different sources of law in France.

Sources of law

The law in France is essentially made up of written rules called **sources of law**. These can be rules adopted by States or between States at national level, but they also include case-law from national and international courts. In addition, they cover rules made at local level, such as municipal by-laws, or by professional and trade organisations, such as the College of Physicians, or rules established by citizens between themselves, such as collective agreements or contracts, and finally mere custom.
This collection is ordered in accordance with a **hierarchy of rules**. So, a new rule:
must respect the previous, superior rules;
may amend previous rules at the same level;
repeals inferior, contradictory rules.

International sources of law

Treaties and international accords

A treaty only comes into force in France when it has been ratified or approved and then published. Some treaties **are directly applicable** in the French legal order, while others need to be **transposed** by an internal rule.

European Union law

The notion of European Union law refers to the rules made by the institutions of the European Community and the European Union. They can be recommendations, opinions, regulations, decisions or directives.

National sources of law

Constitutional rules

the Constitution of 4 October 1958;
the preamble to the Constitution of 27 October 1946, along with the Declaration of the Rights of Man and of the Citizen of 26 August 1789 and the fundamental principles recognised by the laws of the Republic to which they refer;
the organic laws submitted to the Constitutional Council before their enactment, the purpose of which is to complement the Constitution.

Legislative rules

Legislation, passed by Parliament, is subordinate to the Constitution. When addressed, the Constitutional Council reviews the **constitutionality of legislation** before it is enacted, that is, it checks to see if it conforms to the Constitution. The Constitutional Council may also be addressed by the President of the Republic, the Prime Minister, the Presidents of the National Assembly and the Senate, or by 60 members or 60 senators.
In addition, the Council of State or Court of Cassation may refer a case to the Constitutional Council for a ruling on the constitutionality of an existing legislative provision. This happens in cases where a party to the legal proceedings to which the provision applies is contesting the legislation with a view to having it annulled on the basis that it infringes the rights and freedoms guaranteed by the Constitution.
Under Article 55 of the Constitution, international treaties ratified by France are superior to legislation. Courts from both the administrative and ordinary jurisdictions must refuse to apply legislation which appears to be incompatible with a treaty, whether it was ratified before or after the legislation.

Statutory instruments

Orders
Under Article 38 of the Constitution, in order to implement its programme, **the Government** may seek permission from Parliament for a limited period of time to take measures of a legislative nature. These orders have the rank of regulations until such time as they have been ratified by the legislature and may therefore be challenged in the the administrative courts pending their ratification.
Regulations

Regulations **differ according to the authority which introduced them**:
decrees from the President of the Republic or the Prime Minister (when they are adopted in the Council of Ministers or the Council of State they may only be amended under the same circumstances);
interministerial or ministerial orders;
regulatory decisions taken by authorities delegated by the State (prefect, mayor etc.) or decentralised authorities (municipality, *département* – similar to a county – or region).

Collective agreements
The Employment Code establishes the general rules governing employment conditions. In this context, social partners from the private sector (employers and trade unions) negotiate agreements and contracts. Thus collective agreements define employment conditions and guaranteed employment benefits for the employees of the organisations concerned (scrap and recycling trade and industries, homes for young workers, supplementary pension institutions, etc.).
Collective accords, on the other hand, only concern a specific area (wages, working hours, etc.). Collective agreements and accords can be concluded at the level of a particular sector (all the businesses carrying on the same activity in a given territory), a particular business or a particular establishment. The collective agreement can be 'extended' by the Ministry of Employment, Social Affairs and the Solidarity Fund or the Ministry of Agriculture and Fisheries so that it applies to all the organisations in the target sector.
Case-law laid down by the ordinary and administrative courts
Case-law can be laid down by both the ordinary and administrative courts. Case-law laid down by the ordinary courts interprets the law but in principle applies only to the case before it. The case-law of administrative courts takes precedence over regulations in that it can annul a regulation, but ranks beneath statute law.

Institutional framework

The legislative process in France
It is important to distinguish between **a government bill**, the text of which is initiated by the government and which is presented to the Council of ministers by a minister, from a Parliamentary bill, the text of which is initiated by Parliament. The government bill must be lodged with the National Assembly or the Senate.
The bill is then examined by Parliament, and will be adopted if it has been approved in the same terms by both Chambers.
In the event of a disagreement between the two Chambers, a joint committee is convened. This committee is made up of seven members and seven senators and is given the task of proposing an agreed text, normally after two readings by each chamber. The government may expedite the procedure, however. If this happens, a joint committee may be set up after the first reading.
The act is promulgated (i.e. signed) by the President of the Republic within 15 days of the act being transmitted to the government after having been adopted by the Parliament. During this time, the President can request a new reading of the text, and the Constitutional Council may be consulted to verify whether it complies with the Constitution. The **promulgated act** comes into force after it has been published in the Official Journal.
Publication of acts and regulations
In order to have binding effect, acts and regulations must have been **brought to the attention of the citizens**. Individual measures must therefore be notified to people who are affected by them, which means that regulatory measures must be published.
The rules relating to legislative and regulatory texts coming into force were amended by Order no. 2004-164 of 20 February 2004 as of 1 June 2004. Now, Article 1 of the Civil Code provides that, unless otherwise stated, **texts come into force the day after their publication in the Official Journal**.
However, in emergencies, the following may come into force on the same day they are published: laws where their enacting decree have prescribed this, and administrative measures for which this has been preordained by the Government through a special provision.
Apart from **decrees**, **regulatory provisions**, introduced by the competent State authorities at national level (ministerial orders, measures taken by independent administrative authorities, etc.) are also **published in the Official Journal**. The orders of the ministries are often published, in addition, in the ministries' Official Gazettes.
For a regulatory provision to be published in just the Official Gazette, it must concern only a very specific category of citizens (essentially civil servants and agents of the ministry).
Measures taken by local authorities follow specific publications methods. They do not appear in the Official Journal.
Circulars or instructions do not as a general rule have any regulatory effect. These measures are limited to giving instructions to departments for the application of laws and decrees, or to clarify the interpretation of certain provisions.
In order to be applicable, they must have been published on the website of the Prime Minister's Office intended for this purpose (decree No 2008-1281 of 8 December 2008). The usual method is for them to be included in the ministries' Official Gazettes. Only the most important circulars are published in the Official Journal.

Legislation databanks

The public legal databases in France are covered by a public dissemination service over the Internet (SPDDI) under Decree no. 2002-1064 of 7 August 2002 (English version)
This system is explained in detail in the Fact sheet on reusing data available on Légifrance:
Légifrance contains the following:
the codes, acts and regulations in their consolidated version **('Legi' database)**;
the documents as they are published in the '*lois et décrets*' (laws and decrees) edition of the Official Journal **('Jorf' database)**;
the extended national collective agreements **('Kali' database)**;
the decisions of the Constitutional Council **('Constit' database)**;
the decisions of the Court of Cassation and the Courts of Appeal (**'Cass' database** for decisions published in the Gazette, **'Inca' database** for unpublished decisions, and **'Capp' database** for decisions of the Court of Appeal);

the decisions of the Conseil d'Etat and the Conflicts Court, the decisions of the Administrative Courts of Appeal and a selection of decisions from the Administrative Courts of First Instance **('Jade' database)**;
the deliberations of the National Commission for Information Technology and Civil Liberties (CNIL) **('CNIL' database)**.
For reference purposes, other sites, accessible either directly or through Légifrance, take part in this service (SPDDI); they concern:
the Court of Auditors for decisions from the financial courts,
each Ministry for its Official Gazette,
the Directorate General for Taxes for tax documentation,
the Ministry of Foreign and European Affairs for international conventions ('Pact' database).
Information relating to the terms and conditions for retrieving and reusing data concerning the second category above is available on each site.
It is also possible to find a Catalogue of the databases listed above on the Légifrance site.
The list of Légifrance licence tariffs is also available.

Databases

The following is a non-exhaustive list of legal databases:
The LEGI database contains codes, acts and regulations in their consolidated version;
The JORF database contains documents as they are published in the '*lois et décrets*' (laws and decrees) edition of the Official Journal;
The KALI database contains the extended national collective agreements;
The CONSTIT database contains the decisions of the Constitutional Council;
The JADE database contains the decisions of the Conseil d'Etat and the Conflicts Court, the decisions of the Administrative Courts of Appeal and a selection of decisions from the Administrative Courts of First Instance;
The CNIL database contains the deliberations of CNIL (the National Commission for Information Technology and Civil Liberties).

The case-law of the Court of Cassation is available on its website.
There is an online service for ordering the decisions of the Court of Cassation, and some decisions of the Court of Cassation are translated into English, Arabic and Mandarin.
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Jekk jogħġbok innota li l-verżjoni bil-lingwa oriġinali ta' din il-paġna hr ġiet emendata reċentement. Il-verżjoni tal-lingwa li qed tara bħalissa attwalment qed tiġi ppreparata mit-tradutturi tagħna.

National legislation - Croatia

Constitution of the Republic of Croatia

Constitution of the Republic of Croatia

Most important criminal legislation

Criminal Code (*Kazneni zakon*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 125/11, 144/12, 56/15, 61/15, 101/17 and 126 /19)

The new Criminal Code, which came into force on the first day of 2013, introduced some new features, such as higher penalties and longer limitation periods, as well as new criminal offences, such as non-payment of salaries, wanton driving and illicit gambling. Under amendments to the Criminal Code of December 2012 in the area of criminal liability, the possession of drugs for personal use became a minor offence.
The Criminal Code has a general part and a specific part:
(A) The general part of the Criminal Code contains provisions applicable to all criminal offences. These provisions lay down the general principles governing punishability, fines and criminal penalties.
(B) The specific part of the Criminal Code contains descriptions of specific criminal offences and the corresponding penalties, including those governed by other legislation. The criminal offences laid down in the Croatian Criminal Code are:
criminal offences against humanity and human dignity,
criminal offences against life and body,
criminal offences against human rights and fundamental freedoms,
criminal offences against employment and social insurance,
criminal offences against personal freedom,
criminal offences against privacy,
criminal offences against honour and reputation,
criminal offences against sexual freedom,
criminal offences of sexual abuse and sexual exploitation of children,
criminal offences against marriage, the family and children,
criminal offences against human health,
criminal offences against the environment,
criminal offences against general safety,
criminal offences against traffic safety,
criminal offences against property,
criminal offences against the economy,
criminal offences against computer systems, software and data,
criminal offences of forgery,
criminal offences against intellectual property,
criminal offences against public office,
criminal offences against the judiciary,

criminal offences against public order,
criminal offences against the right to vote,
criminal offences against the Republic of Croatia,
criminal offences against a foreign state or international organisation, and
criminal offences against the armed forces of the Republic of Croatia.

Criminal Procedure Act (*Zakon o kaznenom postupku*) (NN Nos 152/08, 76/09, 80/11, 91/12 – Order and Decision of the Croatian Constitutional Court, 143 /12, 56/13, 145/13, 152/14 and 126/19)

This Act lays down the rules to ensure that no innocent person is convicted, and that penalties and other measures are imposed on perpetrators of criminal offences under the terms provided for by law based on lawfully conducted proceedings before a competent court.

Criminal prosecution and proceedings may be conducted and completed only according to the rules and under the terms laid down in the Act.

The Criminal Procedure Act transposes the following EU legislation into the Croatian legal system:

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010);

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims (OJ L 101, 15.4.2011);

Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography (OJ L 335, 17.12.2011);

Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012);

Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008);

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012);

Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013);

Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014);

Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA (OJ L 151, 21.5.2014).

Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016).

Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

Criminal proceedings are initiated by an authorised prosecutor.

The authorised prosecutor for offences for which criminal proceedings are initiated *ex officio* is a public prosecutor (*državni odvjetnik*), while the authorised prosecutor for offences for which criminal proceedings are initiated by private action is a private prosecutor. In the case of certain criminal offences laid down by law, criminal proceedings are initiated by a public prosecutor only at the request of the victim. Unless provided otherwise by law, the public prosecutor is required to initiate criminal proceedings where there are reasonable grounds for believing that a certain person has committed a criminal offence for which criminal proceedings are initiated *ex officio* and there are no legal impediments to the prosecution of the person in question.

If the public prosecutor finds no grounds for initiating or conducting criminal prosecution, a case may instead be brought by the victim in the role of the injured party as plaintiff under the terms specified in the Act.

Act on the Legal Consequences of Conviction, Criminal Records and Rehabilitation (*Zakon o pravnim posljedicama osude, kaznenoj evidenciji i rehabilitaciji*) (NN Nos 143/12 and 105/15)

This Act governs the legal consequences of conviction, the organisation, keeping, accessibility, disclosure and deletion of criminal record data and international exchange of criminal record data, and rehabilitation.

This Act contains provisions that are in compliance with the following European Union acts:

Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States;

Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA.

Criminal records in Croatia are organised and kept by the ministry responsible for the judiciary which is, at the same time, the central authority for the exchange of such data with other states (hereinafter: the Ministry).

Criminal records are kept for natural and legal persons who have been convicted of criminal offences by a final judgement in Croatia. Criminal records are also kept for Croatian citizens and legal persons domiciled in Croatia who have been convicted of criminal offences by a final judgement outside Croatia, if such data have been communicated to the Ministry.

The criminal records include a list of persons convicted by a final judgement of the criminal offences of the sexual abuse and sexual exploitation of children, and other criminal offences referred to in Article 13(4) of this Act.

(A) The most important civil, commercial and administrative law acts in Croatia are:

Civil Obligations Act (*Zakon o obveznim odnosima*) (NN Nos 35/05, 41/08 and 125/11)

This Act governs the bases for civil obligations (general part) and contractual and extracontractual civil obligations (specific part).

Parties to transactions are free to arrange their civil obligations, but these may not be arranged in a manner contrary to the Croatian Constitution, mandatory regulations and public morality.

Ownership and Other Material Rights Act (*Zakon o vlasništvu i drugim stvarnim pravima*) (NN Nos 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12 and 152/14)

This Act establishes general arrangements governing ownership; the rules of this Act also apply to the ownership of items subject to some special legal arrangement, unless contrary to such an arrangement.

The provisions of the Act regarding the right of ownership and the owners apply *mutatis mutandis* to all other material rights, unless otherwise specifically provided for by law or entailed by their legal nature.

Succession Act (*Zakon o nasljeđivanju*) (NN Nos 48/03, 163/03, 35/05 – Civil Obligations Act and 127/13)
This Act governs the right of succession and the rules under which courts, other authorities and authorised persons are to act in matters of succession.
Land Register Act (*Zakon o zemljišnim knjigama*) (NN Nos 63/19)
This Act governs issues relating to the legal status of real estate in the territory of Croatia relevant for legal transactions, as well as the manner and form in which land registers are kept (land title office (*gruntovnica*)) if no specific provisions have been made for certain plots of land.
Civil Procedure Act (*Zakon o parničnom postupku*) (NN Nos 53/91, 91/92, 112/99, 88/01, 117/03, 88/05, 02/07, 96/08, 84/08, 123/08, 57/11, 148/11 – consolidated text, 25/13 and 89/14)
This Act governs the rules of procedure under which courts hear and decide in disputes concerning the fundamental rights and duties of individuals and citizens, personal and family relationships as well as in labour, commercial, property and other civil disputes, unless provisions have been made by law for courts to decide on some of those disputes under other procedural rules.
Enforcement Act (*Ovršni zakon*) (NN Nos 112/12, 25/13, 93/14, 55/16, and 73/17)
This Act governs proceedings in which courts and notaries public enforce the settlement of claims based on enforcement and authentic instruments (enforcement proceedings) and proceedings in which courts and notaries public secure claims (security proceedings), unless otherwise provided for by a separate law. Substantive legal relations established on the basis of enforcement proceedings and security proceedings are also governed by this Act.

(B) Most important legislation governing judicial cooperation:

Private International Law Act (NN 101/17)
This Act governs:
law applicable to private law relationships with an international dimension;
jurisdiction of the courts and other authorities of the Republic of Croatia in legal matters referred to in point 1 of this article and rules of procedure;
the recognition and enforcement of foreign judgments in legal matters referred to in point 1 of this Article.

More details can be found at:
https://pravosudje.gov.hr/pristup-informacijama-6341/zakoni-i-ostali-propisi/zakoni-i-propisi-6354/6354
More
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National legislation - Italy

This page provides you with information on the legal system in Italy.

Sources of law

In Italy, as in every modern democracy, the political system is based on the separation of powers between the legislature, the executive and the judiciary. Italian sources of law are usually provided by the legislature, which the executive enforces. The judiciary intervenes where laws are breached.

Types of legal instruments – description

The sources of law in Italy are, in order of importance:
The Constitution
The laws (codes and other parliamentary laws, regional laws)
Regulations
Customary law
A referendum can be a source of law, if it abrogates (repeals) an earlier law.
Law is open to interpretation and jurisprudence can influence subsequent decisions. However, jurisprudence is not strictly binding as Italy has a civil law system, where positive, written law is the main guide for interpreters.
The Constitution is the principle source of law. It is framed by a constituent power and can be amended only by a special proceeding – more complex than that required to modify ordinary laws.
Parliamentary laws are the result of consideration by both the Camera dei Deputati (low chamber) and the Senato (high chamber) and must be enforced and respected all over Italy. This excludes special laws adopted for specific territories or events – as, for instance, in response to an earthquake.
Regional laws have force only in the territory of the region concerned, and can rule only on specific issues.
In some matters, regional laws may be integrated into state laws (if existent) or may become exclusive (in the absence of a national regulation) – as for commerce, education, scientific research, sport, ports and airports, working safety and cultural goods.
Regulations consist of submitted instruments of rules, with details about the enforcement of laws, both national and regional.

Hierarchy of norms

The Italian judicial system complies with international and communitarian rules, both customary and written.
There is a hierarchy of sources of law. According to the rule of law, a law should not contradict the Constitution and a sub-legislative Act should not contradict a legislative source.

Institutional framework

Institutions responsible for the adoption of legal rules

Usually, the institutions responsible for the adoption of legal rules are the parliament and the regional councils.
In special circumstances, the government can adopt laws (with subsequent confirmation/modification by the parliament). This can be done in cases of urgency, or where the parliament has delegated the power.
Regulations are normally issued by the government or the regional councils, with details about the application of laws.

Decision - making process

The normal process of adopting a law consists of three phases:
Initiation: This prerogative belongs to the government, every member of the parliament, groups of voters (citizens), regional councils and some special institutions
Discussion and voting: This can be done in many different ways, depending on the internal rules of the parliament:
Promulgation and publication: Consists of a proclamation by the President of Italian Republic and publication in the official gazette.

Legal databases

The Normattiva project was launched in March 2010 to promote the computerisation and classification of the State and regional provisions in force by public administrations, to facilitate free searches and consultation of these provisions by citizens and to provide instruments for legislative review, which is the responsibility of the Prime Minister's Office, the Senate of the Republic and the Chamber of Deputies.
The documents in the "Normattiva" database can be consulted in three forms:
the original version published in the Italian Official Journal;
the version in force and applicable on the date of consultation of the database and
the version in force on any given prior date specified by the user.
When complete, the database will comprise the entire corpus of State law in the form of numbered acts (laws, decree laws, legislative decrees and other numbered acts).
At present it contains approximately 75 000 acts, all adopted in or since 1946.
It does not include ministerial decrees.
The project is still at the development phase. In future:
it will be possible to navigate the entire database via dynamic links from the amended provision to the relevant Article in the next amending act;
the search function will be upgraded to include searches "by concept" as well as by semantic category;
all the legislative acts published when Italy was a Kingdom (1861-1946) will be recovered and made available;
it will contain links to all the other public legislative databases, starting with those containing regional laws and Community legislation.
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National legislation - Cyprus

According to Article 1 of the Constitution (Σύνταγμα) 'The State of Cyprus is an independent and sovereign Republic with a presidential regime', based on the principles of legality, the division of authority (executive, legislature and judiciary), the impartiality of the judiciary and respect for and protection of human rights and fundamental freedoms.
Human rights and fundamental freedoms are safeguarded under Part II of the Constitution, which mirrors the European Convention on Human Rights (ECHR) (Ευρωπαϊκή Σύμβαση Ανθρωπίνων Δικαιωμάτων) (Ε.Σ.Α.Δ.) and, under Article 35 of the Constitution, 'The legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions of this Part'.
Legality is safeguarded not only by the written Constitution and provisions of law, but also by the fact that the government undertakes to respect the constitutional limits imposed on it and to ensure that the legislature passes constitutional laws and that there is an independent and impartial judiciary.

Sources of law

1. European Union law

Cyprus became a fully-fledged and equal Member State of the European Union on 1 May 2004 and is subject to EU law. According to the case-law of the Court of Justice of the European Union (Δικαστήριο της Ευρωπαϊκης Ένωσης), EU law takes precedence over the national law of the Member States, including both domestic laws and the Constitution.
The supremacy of EU law over the Constitution of the Republic of Cyprus is safeguarded under the Constitution of the Republic of Cyprus, which was amended in the Law relating to the Fifth Amendment of the Constitution (Ο περί της Πέμπτης Τροποποίησης του Συντάγματος Νόμος) (Law 127(I)/2006) in order to clarify the supremacy and precedence of EU law over the Constitution.
The Republic of Cyprus has also adapted and harmonised its national laws with EU law by enacting numerous legislative acts and, at the same time, repealing or amending various provisions of national law, including the provisions of the Constitution, as described above.
EU law is therefore the source of law which has supremacy in the Republic of Cyprus and includes both the rules adopted by the Member States, i.e. the Treaties establishing the European Community and their protocols and annexes, as subsequently supplemented or amended, and the rules issued by the institutions of the European Union in the form of Regulations, Directives or Decisions. It also includes the rules of international conventions entered into between the EU and third countries or international organisations, general and fundamental principles of law, common law, the general rules of public international law and the case-law of the Court of Justice of the European Union, according to which, as general principles of law, fundamental human rights form an integral part of the European *acquis*.

2. The Constitution of the Republic of Cyprus

The Constitution of the Republic of Cyprus was adopted in 1960, when the Republic of Cyprus was declared and, according to Article 179 of the Constitution, it constitutes the supreme law of the Republic of Cyprus. Following the accession of the Republic of Cyprus to the European Union and amendment of its Constitution as described in paragraph 1 above, EU law takes precedence over the internal constitutional order and rules of law contained in the Constitution must be in keeping with EU law.

3. International Conventions / Treaties / Agreements

Under Article 169 of the Constitution, once international conventions, treaties or agreements entered into by decision of the Ministerial Council have been ratified by law and published in the Government Gazette, they have supremacy over any national law (with the exception of the Constitution) and, in the event of conflict with such laws, they take precedence, provided that they are similarly applied by the counterparty.

4. Formal laws

Formal laws are the laws passed by the House of Representatives (Βουλή των Αντιπροσώπων), which exercises legislative power, and they must be in keeping with both EU law and the Constitution.
Under the provisions of Article 188 of the Constitution, the laws which apply in the Republic of Cyprus today are the laws which were on the statute book pursuant to that article on the eve of Independence Day, unless some other provision has been or will be made pursuant to a law which applies or is passed pursuant to the Constitution and the laws passed by the House of Representatives (Βουλή των Αντιπροσώπων) after independence.

5. Regulatory acts

Regulatory acts are legislative acts issued by the executive pursuant to statutory powers vested in them and must be in keeping both with EU law and the Constitution and laws.
These powers of the administration to enact additional rules of law (secondary legislation), which are needed in order to apply and execute a law, are known as regulatory powers and, although legislative powers in Cyprus are vested in the House of Representatives, they are allowed so that specific issues or issues of local interest or technical or detailed issues can be regulated.

6. Case law of the Supreme Court (Ανώτατο Δικαστήριο)

The doctrine that applies in Cyprus is that judgments handed down by the Supreme Court are binding on all the lower courts. Therefore, a judgment by the Supreme Court interpreting a rule of law is construed as a source of law.

7. Common law – Principles of equity

Common law (κοινοδίκαιο) and the principles of equity (επιείκεια) are also sources of law in cases in which there is no other legislative provision.

Types of legal instruments – description

Written

The Constitution of the Republic of Cyprus

The international conventions/treaties/agreements entered into with third countries, ratified by law and published in the Government Gazette of the Republic, which take precedence over any national law, provided that they are similarly applied by the counterparty.

The laws in force pursuant to Article 188 of the Constitution on the eve of Independence Day in accordance with the provisions thereof, unless some other provision has been or will be made pursuant to a law applicable or passed pursuant to the Constitution. Laws passed by the House of Representatives after independence.

Regulatory acts (Κανονιστικές Πράξεις) (Regulations) (Κανονισμοί).

Unwritten

Case-law of the Supreme Court, the Court of Justice of the European Union and the Court of Human Rights.

Common law and the principles of equity, unless some other provision has been or will be made pursuant to a law applicable or passed under the Constitution.

Hierarchy of norms

Following the accession of the Republic of Cyprus to the European Union, the hierarchy of norms in the Republic of Cyprus is as follows:

EUROPEAN UNION LAW

THE CONSTITUTION OF THE REPUBLIC OF CYPRUS

INTERNATIONAL CONVENTIONS/TREATIES/AGREEMENTS

FORMAL LAWS

REGULATORY ACTS

SUPREME COURT CASE LAW

COMMON LAW AND PRINCIPLES OF EQUITY

Common law and the principles of equity are a source of Cypriot law and are applied in cases in which there is no other legislative provision/institutional framework.

Institutions responsible for the adoption of legal rules

The Constitution of the Republic of Cyprus makes a clear distinction between three estates. Executive powers are exercised by the President, the Vice-President and the Ministerial Council, judicial powers are exercised by the courts of the Republic and legislative powers are exercised by the House of Representatives, which is the supreme legislative body of the Republic. Although the House of Representatives is the supreme legislative body, the executive has the facility to lay down the rules of law needed for the purpose of applying a law and to respond to the numerous instances in which it may need to be applied. These powers vested in the administration to enact additional rules of law needed for the application and execution of a law are known as regulatory powers.

Decision-making process

The procedure for passing a law commences when a proposal for a bill or a bill is tabled. The right to table a proposal for a bill is vested in the Representatives and the right to table a bill is vested in the ministers. All bills and all proposals for bills tabled before the House of Representatives are initially referred for debate by the competent parliamentary committee and then for debate by plenary.

Laws and resolutions by the House of Representatives are passed by simple majority of the representatives present and voting and, once they have been passed, are notified to the Office of the President of the Republic, who either issues them by promulgating them in the Government Gazette of the Republic or refers them back to the House for re-examination, in which case, if the House abides by its decision, the President must issue the law in question, unless he exercises his constitutional right of referral to the Supreme Court so that it can rule on whether or not the law is in keeping with the Constitution or EU law. If the Court rules that it is, then it is promulgated immediately and if not, then it is not promulgated.

Laws enter the statute book on promulgation in the Government Gazette of the Republic or on the date stipulated in the law and may be repealed by another law or tacitly under certain circumstances.

Legal databases

The following legal databases are available in the Republic of Cyprus:

CYLAW

THE CYPRUS LEGAL PORTAL (ΝΟΜΙΚΟΣ ΚΟΜΒΟΣ ΣΤΟ ΔΙΑΔΙΚΤΥΟ)

Is access to databases free?

Access to CYLAW is free. The CYPRUS LEGAL PORTAL is only accessible to subscribers.

Brief description

1. CYLAW

CyLaw was set up in January 2002 as a not-for-profit database to provide free and independent legal information on and access to sources of Cypriot law as part of the international movement for free access to the law of which it is a member. The Cylaw databases contain judgments handed down by the Supreme Court and second instance Family Court since 1997, the rules of civil procedure and a number of legal articles and texts.

The judgments contained in the CyLaw database were recorded in electronic format by the Supreme Court. The texts of the judgments it contains are the authentic texts, as pronounced by the Supreme Court without any interference or correction.

2. Cyprus Legal Portal

The Cyprus Legal Portal provides easy access, among other things, to news articles, texts and articles of immediate interest to anyone involved in legal issues and access to a subscriber legal database containing the ‘Legislation’ (‘Νομοθεσία’) and ‘Case Law’ (‘Νομολογία’) databases of the Republic of Cyprus.

The Directory of Laws (Ευρετήριο των Νόμων) contains a directory of all laws either on the statute book or repealed and a directory of all related regulations. These directories are constantly updated when the Government Gazette is published.

The Directory of Case Law (Ευρετήριο της Νομολογίας) has the facility to search for the text of any decision on the basis of various search criteria.

Related Links

Law Office (Law Office)

Supreme Court
House of Representatives (Βουλή των Αντιπροσώπων)
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National legislation - Latvia

In this section you will find information on the Latvian legal system.

Sources of law

Latvia has a continental European legal system. Its most important source of law is written legislation.

Legislation

Relationships between bodies established under public law, private individuals and other right-holders are regulated by legislation (*ārējie normatīvie akti*).
Types of legislation, in descending order of legal status:
the Constitution of the Republic of Latvia;
statute: laws enacted by Parliament;
Cabinet regulations;
regulations of the Bank of Latvia, the Financial and Capital Market Commission and the Public Utilities Commission (in the Latvian legal system these regulations have the same status force as regulations issued by the Cabinet);
binding local government regulations.
Provisions of European Union law are applied in accordance with their position in the hierarchy of legislative acts. When applying provisions of EU law, authorities and courts must also take into account the case-law of the Court of Justice of the European Union.
Provisions of international law are applied irrespective of their source in accordance with their position in the hierarchy of legislative acts. If a provision of international law and a provision of Latvian law with the same status in the hierarchy are found to be incompatible, the provision of international law is applied.
Binding local government regulations are binding on all individuals and legal persons within the relevant administrative area.
Legislation and other legal acts are published in the official gazette, *Latvijas Vēstnesis*. The official publication is publicly authentic and legally binding. No-one may claim ignorance of the legal acts or official announcements published in the official gazette.
The entities entitled to issue legislative acts are:
the people of Latvia when they exercise legislative powers (one tenth of all electors may submit draft legislation to the Parliament; the people may also take part in referenda);
the Saeima (Parliament) has power to pass statutes;
the Cabinet has power to make regulations where so authorised by statute;
the Bank of Latvia, the Finance and Capital Market Commission and the Public Utilities Commission likewise have power to make regulations where so authorised by statute;
local authorities have power to make regulations where so authorised by statute.

Internal public rules

Internal public rules (*iekšējie normatīvie akti*) are made by a body governed by public law with the purpose of establishing procedures for its own internal operations or those of bodies subordinate to it, or to clarify the procedure for applying general legislation within its own scope of operations. Internal public rules are not binding on private individuals. If a body adopts a decision with regard to a private individual, it may not refer in that decision to an internal public rule.
Types of internal public rules are:
the constitution (*nolikums*) or rules of procedure (*reglaments*) of a body, determining its internal structure and organisation, or the internal structure and organisation of a board or unit it has set up;
recommendations (*ieteikumi)*: these establish procedures for the exercise of the discretion granted under legislation and internal public rules by providing for a uniform course of action in similar circumstances — in certain situations recommendations may be disregarded if there is sufficient justification for doing so;
instructions (*instrukcja*): these determine how general legislation and general legal principles are to be applied;
internal regulations (*iekšējie noteikumi*): these determine the procedure for adopting administrative decisions, how administrative officials and other personnel are to perform their duties, rules of conduct, safety at work and other matters relating to the operations of the body in question.
All types of internal public rules have the same legal status. If internal public rules are found to be incompatible with one another, the act issued by the higher-ranking authority or official is applied.
If an official finds that there is a conflict between internal public rules issued by authorities or officials of the same hierarchical level, he or she applies:
a general legal rule in so far as it is not limited by a special legal rule;
if both rules are general or both are specific, the more recent of the two; the decisive date is the date when the internal public rule was adopted.
If an official finds that there is a conflict between an internal public rule and a rule laid down in legislation, he or she applies the legislation.
The entities entitled to issue internal public rules are:
the Cabinet;
a member of the Cabinet;
a governing body of a public entity;
the head of an authority;
the head of a structural unit set up by an authority.

Sources of law: classes

The sources of law can be divided into the following classes:
laws and regulations (*normatīvie akti*): legal acts that lay down legal rules, bring them into effect, or amend them or repeal them; laws and regulations can be divided into legislation and internal public rules;
general principles of law: written (contained in statute and regulations) or unwritten basic rules governing objective legality in social life;
customary law: rules of conduct that have developed as a result of actual application over an historical time-frame; customary law is applied when developing rights and interpreting provisions of law if statute or other legislation does not provide an answer to the question at issue;

case-law: the body of court rulings containing correct and valuable abstract legal findings which can be used by judges in other cases as reasoning for their own rulings;
learned writing (*doktrīna*): the body of established academic opinion providing an interpretation of provisions of law, their origins and their application; learned writing is widely referred to in the grounds of rulings by courts and public administrative bodies.

Hierarchy of sources of law

Primary sources of law

laws and regulations: these are the sources of law with the highest legal status; they are applied in accordance with their position in the hierarchy of legislative acts;
general principles of law: this source of law is applied if the matter in question is not governed by statute or regulation; general principles of law are also used in the interpretation of laws and regulations; there is no hierarchy among general legal principles: they each have the same status in law;
customary law: this is applied when developing rights and interpreting provisions of law if statute or other legislation does not provide an answer to the question at issue.

Secondary sources of law

case-law – court judgments that, in accordance with the procedural rules, are binding on the courts that hear claims; these judgments have the force of law, are binding on all parties and must be accorded the same respect as statute law.
judgments of the Constitutional Court (*Satversmes tiesa*) are binding on all State and local authorities, institutions and officials, including courts, and on both natural and legal persons. A provision of law (or act) deemed by the Constitutional Court to be inconsistent with a provision of law of higher legal status is considered null and void from the date of publication of the Constitutional Court judgment, unless the Constitutional Court rules otherwise.
If the Constitutional Court deems an international agreement signed or concluded by Latvia to be unconstitutional, the Cabinet is obliged to arrange for the agreement to be amended, denounced, its operations to be suspended or accession to the agreement to be withdrawn.
If a decision of the Constitutional Court that puts an end to a case contains an interpretation of a provision of law, the interpretation is binding on all State and local authorities, institutions and officials, courts, and natural and legal persons.
learned writing is extensively referred to in the reasoning of court rulings and the decisions of public administrative bodies; learned writing has no legal force, nor is it universally applicable.

Institutional framework

Entities entitled to enact legislation

The right to legislate is held by **the Saeima** and **the people of Latvia** with the right to participate in referenda.
The Cabinet may issue legislation in the form of regulations (*noteikumi*) in the following cases:
on the basis of an authorisation laid down by statute;
to approve an international agreement or draft thereof, denounce an international agreement or suspend its operations, unless the Constitution or the law provides otherwise;
if necessary for the application of European Union legislative acts and if the issue in question has not been regulated by statute; these regulations may not impinge on the fundamental rights of private individuals.
The Bank of Latvia, **the Financial and Capital Market Commission** and **the Public Utilities Commission** may enact legislation (regulations, *noteikumi*) only on the basis of an authorisation laid down by statute, and within the scope of their remit.
Local authorities may enact legislation (binding regulations) on the basis of statutes or Cabinet regulations.

Legislative process

This section provides a brief overview of the legislative process.

Statute

Tabling of draft legislation in Parliament

Draft legislation may be submitted to Parliament by the President, the Cabinet, parliamentary committees, no less than five Members of Parliament or, in cases and in accordance with procedures provided for in the Constitution, one tenth of all voters.

Examination and adoption of draft legislation in Parliament

Parliament examines draft legislation in three readings. Draft legislation judged to be urgent, the draft State Budget, amendments to the State Budget and draft legislation providing for the adoption of international agreements is adopted at second reading.
Draft legislation is deemed to have been adopted and becomes law if it has been examined in three readings, or in two readings in the cases referred to above, and when the draft is put to a vote it is supported by the absolute majority of votes of the Members of Parliament present.

Promulgation of laws

All the laws adopted are sent by the Steering Committee (*Prezidijs*) of the Saeima to the President for promulgation.
The President promulgates the laws adopted by the Saeima no earlier than the tenth day and no later than the twenty-first day after their adoption. The law enters into force on the fourteenth day after its promulgation (publication) in *Latvijas Vēstnesis*, the official gazette, unless the law provides for a different deadline.

Right to suspend promulgation of a law

The President has the power to request reconsideration of a law or to postpone its publication for up to two months.
The President exercises the right to request reconsideration of a law at his or her own initiative, but can only postpone publication of a law if so requested by no less than a third of all Members of Parliament. The President or a third of all Members of Parliament can exercise the abovementioned rights within ten days of adoption of the law by the Saeima.
A law suspended in accordance with the above procedure is referred for a vote to a national referendum, if this is requested by no less than a tenth of all voters during the signature collection procedure. However, if no such request is received within two months, the law is published. A referendum is not held if the Saeima votes on the law in question once again and at least three quarters of all Members of Parliament vote to adopt it.
A law adopted by the Parliament and suspended by the President may be repealed by a referendum if at least half of the voters who participated in the previous Saeima elections take part in the referendum and the majority of them vote in favour of repealing the law.
Not all laws can be put to a referendum, however. The Budget and laws on loans, taxes, Customs, railway tariffs, military service, the declaration and initiation of war, the conclusion of a peace treaty, the declaration and repeal of a state of emergency, mobilisation and demobilisation and agreements with foreign countries may not be put to a referendum.

Entry into force of a law

A law enters into force on the fourteenth day following its publication in *Latvijas Vēstnesis*, unless the law specifies another deadline. The time limit for entry into force of a law begins the day following publication of that law.

Cancellation of a statute

A statute ceases to be in force in the following circumstances:
upon entry into force of a statute repealing the earlier statute;
upon entry into force of a transitional provision of another statute which provides that the earlier statute is repealed;
upon entry into force of a judgment of the Constitutional Court which annuls the relevant law;
in the case of a law adopted for a limited time period, when the period for which the law was intended to be in force expires.

Cabinet regulations

Submission of a draft regulation to the Cabinet

A draft regulation drawn up by a Ministry, the State Chancellery or a public administrative body answerable to the Prime Minister may be submitted to the Cabinet by a member of the Cabinet.
A draft regulation drawn up by the head of another State or local authority, NGO or social partner organisation may be submitted for consideration by a Cabinet committee or by the Cabinet itself only via the member of the Cabinet who is politically responsible for the respective area, sector or sub-sector.

Examination and adoption of a draft Cabinet regulation

Draft regulations submitted to the Cabinet are notified and discussed at meetings of State Secretaries. Once a draft Cabinet regulation has been notified, it is sent to the relevant Ministries for their approval and, if necessary, to other relevant institutions. The Ministry of Justice and Ministry of Finance give their opinion on all draft legislation. NGO representatives may also submit their opinions during the approval process.
Draft regulations which have been agreed upon are examined at a meeting of the Cabinet, whereas those on which agreement has not been reached are discussed at a meeting of State Secretaries or of a Cabinet committee. Any projects agreed upon at such a meeting are referred to a meeting of the Cabinet for further consideration. If the Cabinet meeting endorses the draft regulation, it is deemed to have been adopted and becomes a Cabinet regulation.

Promulgation of Cabinet regulations

Cabinet regulations are promulgated by publication in *Latvijas Vēstnesis*, the official gazette.

Entry into force of Cabinet regulations

Cabinet regulations enter into force on the day following their publication in *Latvijas Vēstnesis*, unless they specify otherwise.

Cancellation of Cabinet regulations

Cabinet regulations cease to be in force in the following circumstances:
upon entry into force of a Cabinet regulation repealing the earlier regulation;
upon entry into force of a provision of the closing provisions of a Cabinet regulation which repeals the earlier regulation;
if the provision of a law on the basis of which the Cabinet regulation was issued ceases to be in force;
upon entry into force of a judgment of the Constitutional Court which annuls the relevant Cabinet regulation;
in the case of a Cabinet regulation adopted for a limited time, if the period for which the regulation was intended to be in force expires.

Regulations of the Bank of Latvia, Finance and Capital Market Commission and Public Utilities Commission

The procedure for the promulgation, entry into force and cancellation of regulations of the Bank of Latvia, the Finance and Capital Market Commission and the Public Utilities Commission is equivalent to the procedures for the promulgation, entry into force and cancellation of Cabinet regulations.

Binding local government regulations

Submission of draft binding local government regulations to a local council

Draft binding local government regulations may be submitted to a local council by the chair of the council, a council committee, members of the council, the initiator of an extraordinary meeting or the head of a city, town or civil parish administration.

Examination and adoption of draft binding local government regulations

Draft binding local government regulations are adopted and become binding if more than half of the members of the local council present vote in favour, unless otherwise provided by statute.
The council sends the regulations and an explanatory memorandum to the Ministry of Environmental Protection and Regional Development in written and electronic form within three days of the date of signature. The Ministry evaluates the legality of the regulations within a month of receiving them and sends the local council its opinion.
If the opinion of the Ministry contains no objections with regard to the legality of the regulations, or no opinion is sent to the local council within the specified time limit, the local council issues the binding regulations as adopted.
If an opinion from the Ministry is received which finds that the regulations are illegal in whole or in part, the local council makes improvements to the regulations in line with the opinion and issues amended regulations. If the local council does not agree with the opinion in whole or in part, it provides justification for this in its decision and issues the regulations. The regulations are sent to the Ministry of Environmental Protection and Regional Development in written and electronic form within three days of the date on which they are signed.

Promulgation of binding local government regulations

A city council (*Republikas pilsētas dome*) publishes binding regulations and the explanatory memorandum accompanying them in the official gazette, *Latvijas Vēstnesis*. A municipal council (*novada dome*) publishes binding regulations and the explanatory memorandum accompanying them in *Latvijas Vēstnesis* (since 6 November 2015) or in a local newspaper or free publication.
A municipal council must adopt binding regulations specifying where such regulations are to be published, and must publish that choice in *Latvijas Vēstnesis*.
A municipal council can change its chosen channel of publication for binding regulations no more frequently than once a year. After their entry into force, binding local government regulations are published on the local government website. Binding regulations enacted by municipal councils are also made available in the municipal council building and in the administrative offices of the civil parish, town or city.

Entry into force of binding regulations of local governments

Binding regulations enter into force on the day following their publication in their official publication channel, unless they specify a later date of entry into force.

Cancellation of binding local government regulations

Binding local government regulations cease to be in force in the following circumstances:
upon entry into force of binding regulations repealing the earlier regulations;
upon entry into force of a provision of the closing provisions of binding regulations which repeal the earlier regulations;
if a provision of a higher-ranking law or regulation, on the basis of which the relevant binding regulations were issued, ceases to be in force;
upon entry into force of a judgment of the Constitutional Court which annuls the relevant regulations;
in the case of binding regulations adopted for a limited time, if the period for which the regulations were intended to be in force expires.

Legal databases

Latvijas Vēstnesis, official gazette of the Republic of Latvia

The official publication *Latvijas Vēstnesis* is the official gazette of the Republic of Latvia. Publication of information therein constitutes its official publication. The official publication is publicly authentic and legally binding.
No-one may claim ignorance of the legal acts or official announcements published in the official gazette.
Since 1 July 2012, the official gazette *Latvijas Vēstnesis* is published officially in electronic form on the website https://www.vestnesis.lv. Information published on the website https://www.vestnesis.lv prior to that date was for information purposes only: until then the official publication was in the print version of *Latvijas Vēstnesis*.

Consolidated legislation

Consolidated statutes, Cabinet regulations and other laws and regulations are available on the Latvian legislative website https://likumi.lv/. All of the consolidated laws and regulations published on the website are for information purposes only. The website is maintained by the official publisher VSIA Latvijas Vēstnesis.

Official publisher

The publisher of the electronic official gazette *Latvijas Vēstnesis* is the same as for the previous print edition of the same name: VSIA Latvijas Vēstnesis. The official publisher operates in accordance with international standards ISO 9001:2015 (quality management) and ISO 27001:2013 (information security).

Can the database be accessed free of charge?

Yes, *Latvijas Vēstnesis* is available free of charge. The electronic archive of the previous *Latvijas Vēstnesis* print edition is also available free of charge. Access to the website of consolidated legal acts is also free.

Links

Saeima (Parliament of the Republic of Latvia
Cabinet of the Republic of Latvia
Bank of Latvia
Financial and Capital Market Commission
Public Utilities Commission
Contact information for local authorities
Official gazette, *Latvijas Vēstnesis*
Latvian legislative website

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National legislation - Lithuania

This page provides you with information on the Lithuanian legal system and an overview of Lithuanian law.

Sources of law

Sources of law are the official means by which legal provisions are conveyed and laid down.
A **legal act** is an official written document adopted by the competent state institution in which legal provisions are laid down and explained or in which the basis on which legal provisions are applicable in an individual case is indicated. Depending on the nature of the legal information laid down therein, legal acts comprise the following:
Legislative instruments – these are decisions of state institutions expressed in written form laying down, amending or repealing rules of a general nature applicable to an indeterminate group of addressees and approved by the state. Legislative instruments are divided into two categories:
Laws, the highest-ranking of all legal acts, which are adopted by the Parliament of the Republic of Lithuania [*Seimas*] or by national referendum, setting out general legal provisions intended to regulate the main areas of human interaction and having overriding legal force. Laws are regarded as being the principal source of law.
Subordinate instruments, which are legislative instruments adopted on the basis of a law intended to give it concrete form and ensure its implementation. Subordinate instruments may not be inconsistent with laws. They comprise the following:
Parliamentary resolutions,
Government resolutions,
instructions and orders of ministerial departments,
resolutions and decisions of local authorities and public administrations,
other instruments.
Interpretative acts, which are adopted in order to shed light on the meaning and content of applicable legal provisions. These are adopted by an institution which has competence for interpreting the law.
Individual implementing acts, in which the requirements laid down by legal acts, are put into effect. In the same way as legislative instruments, individual implementing acts produce legal effects but do not have the status of a source of law because they do not create general rules of universal application but are addressed in terms of their prescriptive content to specific persons in specific circumstances and are of a one-off nature in the sense that they are no longer applicable when the social relation in question (recruitment, notice, pension award, etc.) ceases to exist.

Other sources of law

In addition to legislative instruments, the following are also deemed to be sources of primary law:
General legal principles (good faith, equity, individual responsibility, reasonableness) are considered to be an integral part of the Lithuanian legal system both for interpreting statutory provisions and filling legal gaps. In addition, under Article 135(1) of the Constitution of the Republic of Lithuania, universally recognised principles of international law are also considered to form an integral part of the Lithuanian legal system, and Lithuanian courts are therefore required to apply and be guided by them.
Legal customs, i.e. rules of conduct approved by the state established in society as being of repeated and long-term effect. The Civil Code of the Republic of Lithuania establishes customs as a direct source of law. They may be applied when a law or contract directly provides for their application or if there is a gap in legal regulation. Customs which contradict general legal principles or imperative legal provisions may not be applied.

The following are recognised as secondary sources of law:

Judicial precedent, i.e. a court ruling in a specific case which has become a guide for courts of the same or a lower instance when examining analogous cases. Precedents are more of an advisory nature within the Lithuanian legal system.
Legal doctrine.

Hierarchy of norms

The hierarchy of legal acts is as follows:
the Constitution,
constitutional laws,
ratified treaties,
laws,
other legal acts implementing laws (acts of the President, Government, Constitutional Court, etc.).

Institutional set-up:

The **Lithuanian Parliament** [*Seimas*] is the only institution entitled to adopt laws. Legal acts adopted by any other state institution must be consistent with the Constitution of the Republic of Lithuania and other laws.
Other legislative instruments may be adopted by:
the Lithuanian Parliament (resolutions),
the President (decrees),
the Government (resolutions),
ministries and other Government bodies (orders),
local authorities (decisions, orders).

Legal databases

The Lithuanian database of legal acts (*Lietuvos teisės aktų duomenų bazė*) is owned and maintained by the **Parliament of the Republic of Lithuania.**
It contains the following:
adopted legal acts,
draft legal acts,
resolutions,
conclusions,
other types of legislative instruments.
The documents in this database are neither official nor legally binding.
You can search the database in both English and Lithuanian. You can access the various types of legislative documents by clicking on the drop-down menu alongside 'Type'.
You can also find legislation and other legal documents in the Register of legal acts of Lithuania (*Lietuvos teisės aktų registras*). This site is maintained by the **state enterprise Centre of Registers** (*valstybė įmonė Registrų centras*) and is supervised by the **Ministry of Justice.** From 31 August 2013 the Register will be maintained by the Chancellery of the Parliament of the Republic of Lithuania.

Is access to the database free of charge?

Yes, access to both the register and database of legal acts of Lithuania is **free of charge**.

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National legislation - Luxembourg

In this section, you will find an overview of the different sources of law in Luxembourg.

Sources of law

International sources of law

The Grand Duchy of Luxembourg is bound by international, multilateral and bilateral treaties. In addition to the obligations that those commitments impose on the Luxembourg State in its relations with other States, some of those treaties are sources of law for individuals (for example, EU citizens can rely directly on freedom of movement on the basis of the European treaties).

International agreements

These are international treaties and accords concluded between the Grand Duchy of Luxembourg and foreign States. Some examples are the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 or the Benelux treaties signed in The Hague on 3 February 1958 and 17 June 2008 respectively, and which are binding on Belgium, the Netherlands and Luxembourg.

European Union law

European Union law comprises the European treaties themselves and the rules of secondary legislation, contained in the acts adopted by the institutions of the European Community and the European Union: directives, decisions, regulations, opinions and recommendations.

National sources of law

Constitutional rules

The Constitution of the Grand Duchy of Luxembourg was promulgated on 17 October 1868. The constitutional system established in 1868 closely resembles the system of the Belgian Constitution of 1831. Notwithstanding the numerous differences in the details, publications on Belgian constitutional law can be referred to without reservation as regards the general principles. Despite the numerous constitutional amendments made since its promulgation, the current Constitution still corresponds substantially to the text promulgated in 1868.
The Luxembourg Constitution is a rigid constitution, meaning that a special procedure is required to amend it, which is more complex than the ordinary legislative procedure. An amendment to the Constitution requires two successive votes of the Luxembourg Parliament (*Chambre des Députés*) and at least a two-thirds majority of the votes cast, with no proxy voting allowed. The two votes must be held at least three months apart.
If, in the two months following the first vote, more than a quarter of the members of the Parliament or 25,000 voters so request, the text adopted at first reading by the Parliament is subject to a referendum. In such case, there is no second vote and the amendment is adopted only if it secures a majority of the valid votes cast.

Legislative rules

Laws are defined as the norms passed by the Parliament and promulgated by the Grand Duke. The Luxembourg legislature decides on the overall form it wants its administrative law to take, except when a constitutional provision or a provision of international law limits its freedom.

Regulatory rules

Clearly, laws cannot regulate every matter down to every last detail. Furthermore, the use of the relatively complicated legislative procedure is not always appropriate, for example when it comes to legislating in an area in which the provision has to be frequently amended.

This is where the Grand-Ducal regulation (*règlement grand-ducal*) comes in, which is the implementing instrument for the law. Indeed, the Luxembourg Constitution entrusts to the Grand Duke the task of '(enacting) the regulations and orders necessary for carrying laws into effect'.

What, if any, are the other sources of law and what force do they have?

Case-law

Recognising case-law as a source of law is not without its difficulties. Indeed, Luxembourg law does not recognise the 'rule of precedent' applied in legal systems based on the common law model, and the courts are generally not bound by judgments handed down in other, even quite similar, cases. Moreover, judges are prohibited from ruling through general principles and their judgment must therefore always be limited to the specific case before them.

In practice, the production of case-law rendered in a similar case nevertheless has clear significance. Furthermore, when an instrument is open to interpretation, the judge clearly has greater power because he or she can shape the law while interpreting it.

International case-law

The Grand Duchy of Luxembourg recognises the direct authority of several international courts, including the European Court of Human Rights sitting in Strasbourg.

European case-law

Pursuant to Article 267 TFEU, the case-law of the Court of Justice of the European Union applies to national courts by means of reference for a preliminary ruling, which allows national courts, before ruling, to ask the Court of Justice for the solution to problems arising from the application of EU law, of which individuals can avail themselves before those courts.

National case-law

As a general rule, court judgments handed down at the conclusion of civil and commercial proceedings only have relative *res judicata* authority: these judgments are binding on the parties to the case, but they do not alter the arrangement of the law.

That is also the case for the majority of judgments handed down by the administrative courts. By way of exception, when an action against a regulatory act is brought before the Administrative Court of First Instance (*Tribunal administratif*) or the Administrative Court (*Cour administrative*), a judgment or decision will be of general application and it will be published in the *Mémorial*, the official journal of the Grand Duchy of Luxembourg.

The decisions handed down by the Constitutional Court (*Cour constitutionnelle*) are also of general application and are published in the *Mémorial* (the official journal of the Grand Duchy of Luxembourg).

The general principles of law

Among the rules derived from case-law, it is important to note in particular the category of the general principles of law, defined as 'rules of law that are binding on the administration and the existence of which is confirmed by the decisions of the courts'.

Hierarchy of norms

In domestic law, there is a hierarchy of sources of law. The Constitution is the highest source of law, followed by laws and regulations.

In the absence of any constitutional provisions, the position of Luxembourg law on the relationship between international law and domestic law derives exclusively from case-law.

Luxembourg case-law on this point has grown since the early 1950s when first the Court of Cassation (*Cour de Cassation*), and then the Council of State (*Conseil d'Etat*), signalled an end to the previously upheld position that a review by the courts of the conformity of laws with international treaties was impossible due to the separation of powers.

According to the Council of State's landmark decision of 1951, 'an international treaty incorporated into domestic legislation by a law of approval is a law of superior essence having a higher origin than the will of an internal body. It follows that in the case of a conflict between the provisions of an international treaty and those of a subsequent national law, international law must prevail over national law' (Council of State, 28 July 1951, Pas. lux. t. XV, p. 263).

The language of that decision is obviously very broad since the ruling asserts without any distinction that international norms prevail over the will of any internal body. However, the Luxembourg courts have never explicitly ruled in favour of the primacy of international norms over the Constitution.

It should be noted that the Constituent Assembly, at the time of the 1956 amendment, expressly rejected a government bill, which stated that 'The rules of international law are part of the national legal order. They prevail over national laws and all other national provisions.' The commentary on the articles had clearly stated that the latter wording was to include constitutional provisions.

Nevertheless, the Council of State implicitly acknowledged that primacy in an opinion of 26 May 1992 on the draft law approving the Treaty on European Union. Indeed, in it the Council suggests that 'it should be borne in mind that under the rule of the hierarchy of legal norms, international law takes precedence over national law and, in the case of conflict, the courts shall set aside domestic law in favour of the Treaty. Given the importance of avoiding a contradiction between our national law and international law, the Council of State urges that the related constitutional amendment take place within the appropriate period of time to prevent such a situation of incompatibility.' The Grand Duchy of Luxembourg therefore appears to have taken a resolutely internationalist path.

This state of affairs is undoubtedly a technical consequence of the absence of a constitutional review of laws in Luxembourg. The Constitutional Court verifies the conformity of laws with the Constitution. An issue regarding the conformity with the Constitution of a law approving an international treaty may not actually be referred to it.

In the Luxembourg legal system, laws contrary to the Constitution may be declared unconstitutional by the Constitutional Court. A Luxembourg judicial or administrative court may refer a matter to the Constitutional Court when, in the context of proceedings before it, the issue of constitutionality is raised. Direct application to the Court is not possible.

An action for annulment is also possible against illegal regulatory acts before the Administrative Court of First Instance with the possibility of appeal before the Administrative Court. However, such an action is only admissible within a period of three months from the publication of the regulation. If, after the expiry of that period, the legality of a regulatory act is discussed before a judicial or administrative court, the court still has the option of setting aside the regulatory instrument in favour of the law, but unlike the direct action possible during the three months following publication, that judgment will not have general enforceability.

National entry into force of rules in supranational instruments

International agreements

The Luxembourg Constitution is exceptionally concise in regulating the procedure for the approval of international treaties since it confines itself to stating that 'treaties will not have effect before having been approved by law and published in the forms specified for the publication of laws'.

The Grand Duchy is a country with a monistic tradition. In other words, the treaty itself applies in the same way as a domestic norm of the Grand Duchy without it being necessary to transpose it in one form or another.

The content of the law of approval is therefore very brief and generally confines itself to a single article according to which a particular treaty 'is hereby approved'. This law has no normative content. The law of approval approves, but it does not transpose; it has no purpose other than to authorise the Government to proceed with ratification of the treaty.

The law of approval is passed by the Parliament in accordance with the ordinary procedure. Voting is normally by absolute majority, except if the treaty comprises the delegation of powers (see below). Since the 1956 amendment, the Luxembourg Constitution contains an express provision making it possible to delegate powers to international organisations by treaty. Article 49*bis* of the Constitution states that 'the exercise of powers reserved by the Constitution to the legislative, executive and judicial branches may be temporarily vested by treaty in institutions governed by international law'. The second paragraph of Article 37 of the Constitution, nevertheless, provides that treaties of this type must be approved by the Parliament by a significantly reinforced majority.
Except where expressly provided, the passing of a law of approval does not have the effect of bringing a treaty into force in Luxembourg national law. The law of approval is a prerequisite for its entry into force but this will only take place after ratification. Moreover, in Luxembourg, even after approval by the Parliament, the executive branch is held to retain full discretion to ratify the text and the exercise of that power cannot be reviewed by the courts.
The entry into force of a treaty in national law is generally subject to three conditions: (1) the Grand Duchy must have ratified the treaty, (2) the treaty must be in force internationally and (3) the text of the treaty must have been published in full in the Luxembourg *Mémorial* in the same way as a law.
It should be noted that the publication of the treaty (required by Article 37 of the Constitution) is a separate requirement from the requirement to publish the law approving the treaty. Admittedly, in most cases, both conditions are met at the same time, i.e. the text of the treaty is published in the *Mémorial* immediately after that of the law. However, they are two separate acts and their publication could be separate since the treaty does not form an integral part of the law of approval.

European Union norms

The Luxembourg Constitution does not contain any specific provisions governing the transposition of secondary European legislation into Luxembourg's national law.
The usual instrument for the implementation of European directives is a law adopted by an ordinary majority of the Parliament.
While, in principle, European directives normally have to be transposed into Luxembourg legislation by means of a law, it is not, however, necessary to use formal law when the directive concerns a matter already governed by a non-contradictory Luxembourg law. In this case, transposition can take place by means of a Grand-Ducal regulation adopted on the basis of the general power to enforce laws that the Government draws from Articles 33 and 36 of the Constitution. It is then *strictly-speaking* the Luxembourg law that the Grand Duke enforces, even if the content of the regulation actually draws on the European directive.
The use of legislation can even be avoided when the matter harmonised by the directive has been the subject of an enabling statute by which the Parliament grants the Government the power to deal with matters that normally fall within the scope of laws by means of simple regulations.
Such 'enabling statutes' have been adopted by the Parliament since 1915 and the Government thus has extensive regulatory powers in the fields of the economy and finance that, even in the absence of an express reference to Europe, would undoubtedly have enabled it also to transpose numerous European directives.
Nevertheless, the transposition of European directives is today governed by a specific enabling statute of 9 August 1971, amended by a law of 8 December 1980, the purpose of which is limited to authorising the Government to execute and endorse the directives of the European Communities on issues relating to the economy, technology, agriculture, forestry, social affairs and transport. By way of derogation from the ordinary regulatory procedure, the Grand-Ducal regulations in question must have received the approval of the relevant parliamentary committee.
The procedure for adopting Grand-Ducal regulations is characterised, like the legislative procedure, by the obligation on the Government to submit its bill for the opinion of the Council of State and of the professional chambers (*Chambres professionnelles*). However, unlike the legislative procedure, the regulatory procedure allows the Government simply to avoid such consultations on the grounds of the urgency of adopting the recommended measure. This facility is, nevertheless, denied to the Government when it aims to transpose a EU directive by means of a Grand-Ducal regulation. Indeed, the law of 9 August 1971 supplements the ordinary regulatory procedure by requiring, on the one hand, the mandatory consultation of the Council of State and, on the other hand, the approval of the relevant parliamentary committee.
In both cases, the text of the Grand-Ducal regulation is adopted in the Council of Ministers (*Conseil des ministres*), then signed by the minister responsible and submitted to the Grand Duke for the purpose of promulgation. The Grand-Ducal regulation enters into force after its publication in the *Mémorial*.

Entry into force of rules of national origin

In the Grand Duchy of Luxembourg, laws and regulations enter into force only following their publication in the *Mémorial*.

Authorities empowered to adopt legal rules

International norms

The Luxembourg Constitution states that 'The Grand Duke signs treaties'. However, it adds that 'treaties will not have effect before having been approved by law and published in the forms specified for the publication of laws'.
It should be noted that approval is required for all international treaties, irrespective of their purpose and that this approval must be given in the form of a law.
The latter clarification was inserted in 1956 at the express request of the Council of State, which considered that 'this approval is tied to the law-making procedure, because the Constitution only recognises this single procedure, which is applicable to all expressions of will of the Parliament, on any matter whatsoever'.

National norms

In the legislative system of the Grand Duchy of Luxembourg, **the initiative for a law** may come from the Parliament or the Government.
The right of initiative of the Government is called 'government initiative' and is exercised by presenting '**government bills**'.
The right of initiative of the Parliament is called 'parliamentary initiative' and is exercised by presenting '**private member's bills**'.
Afterwards, these government or private member's bills are submitted for the opinions of the bodies concerned (professional chambers) and, most importantly, for the opinion of the **Council of State**. After the Council of State's opinion has been received, the government or private member's bill is sent back to the Parliament.

Process for the adoption of these legal rules

Laws

The Parliament is a single-chamber parliament.
In order to mitigate the risk of impetuosity in a unicameral system, Luxembourg's Constituent Assembly provided that every government bill must in principle be the subject of two votes, at least three months apart.
However, the Constitution provides that the requirement of a second vote (known as a 'second constitutional vote') may be waived 'if the Parliament, in agreement with the Council of State, sitting in open session, decides otherwise'.
The Council of State exercises a very distinctive function in this case, similar to the role played by the second legislative chambers in other States (and in particular the role played by the House of Lords in England). It is first involved before the parliamentary debates. The Constitution requires that the opinion of the Council of State be sought on every government or private member's bill. The Council of State then participates a second time after the first vote of the Parliament to decide, in open session, whether to waive the second vote.

In practice, a second vote is waived in this way for the vast majority of laws. The Council of State has adopted a policy according to which the waiver is granted in almost all cases, with the sanction of refusal being reserved for the most serious cases. Potential obstacles to the waiver are most often removed during the preliminary procedure.
It should also be pointed out that the power of the Council of State is not an effective power of veto, which would, moreover, be difficult to reconcile with the fact that the Council of State is an unelected body. Indeed, the members of the Council of State are appointed by the Grand Duke. In the event of a vacancy, replacements are appointed in turn, the first: directly by the Grand Duke, the second: from a list of three candidates proposed by the Parliament and the third: from a list of three candidates proposed by the Council of State. The Council of State may only delay the passing of a law by two months and in this way allow the legislature additional time for reflection.
The Grand Duke participates not only at the start of the legislative procedure (for government bills), but also after the final passing of the text of the law by the Parliament. The Luxembourg Constitution states that 'the Grand Duke promulgates laws within three months of the vote of the Parliament.'

Grand-Ducal regulations

Pursuant to Article 2 of the law of 12 July 1996 reforming the Council of State (*loi du 12 juillet 1996 portant réforme du Conseil d'Etat*), all **draft regulations** implementing laws and treaties may only be submitted to the Grand Duke once the **Council of State** has been consulted for its **opinion**.
However, the Government may waive this general rule in cases of urgency (to be assessed by the Grand Duke on the basis of a properly reasoned report prepared by the proposing minister) and consequently dispense with seeking the opinion of the Council of State (or *Haute Corporation* as it is sometimes referred to). Nevertheless, the exercise of this **emergency procedure** is to be reserved for exceptional circumstances.
Moreover, if an act of parliament expressly requires that the Council of State be asked for its opinion on regulations implementing that law, under no circumstances may the emergency procedure be exercised. That is also the case for amendments to draft regulations for which the Council of State has already issued a first opinion.
In the same way as for acts of parliament, the Council of State delivers its opinions on draft regulations in the form of a **reasoned report** containing general considerations, an examination of the text of the draft and, where necessary, a counter draft regulation.
Examination by the Council of State takes into consideration the content and the form of draft regulations as well as their compliance with a higher legal norm.

Legislative databases

The Légilux site is the online law portal of the Government of the Grand Duchy of Luxembourg.
It provides access to Luxembourg legislation, either in the form of the rough (original) texts in *Mémorial A* or in the form of consolidated texts, contained for the most part in legislative codes and digests.
The site is divided into three main areas, which are:
The Legislation Area bringing together publications concerning Luxembourg legislation, various other publications and consolidated texts.
The Administration Area featuring publications considered to be 'administrative'. This consists primarily of *Mémorial B* digests and the *Annuaire Officiel d' Administration et de Législation* (the official directory of administration and legislation).
The Companies and Associations Area, *Mémorial C* was replaced , from 1 June 2016, with a list of publications available on the website of the Luxembourg Business Registers (*Registre de commerce et des Sociétés* — RCS). The *Mémorial C* archives, from 1996 to the last *Mémorial C* published on 27 July 2016, will remain available in the Companies and Associations Area.

Is database access free of charge?

Yes, access to the databases is **free of charge**.

Related links

Légilux site
Council of State
The Parliament
Government
Ministry of Justice

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National legislation - Hungary

This page provides you information about the legal system in Hungary.

Sources of law

I. Legislative hierarchy

1. Fundamental Law

The **Fundamental Law of Hungary** (promulgated on 25 April 2011), sits at the apex of the legislative hierarchy in Hungary, and every other law must be compatible with it. The Fundamental Law was enacted by the **Hungarian Parliament** (also known as the National Assembly), and an **amendment** requires **a two-thirds majority of the votes of all Members of Parliament** (Article S(2) of the Fundamental Law).
The Fundamental Law and its transitional provisions (Transitional Provisions of the Fundamental Law of Hungary, promulgated on 31 December 2011) **entered into force on 1 January 2012**.
The Fundamental Law consists of **six sections**: a preamble entitled **National Avowal** as well as the sections entitled **Foundation** (Articles A to U), **Freedom and Responsibility** (Articles I to XXXI), **The State** (Articles 1 to 54), Special Legal Orders, and **Closing and Miscellaneous Provisions**.
The section entitled **Foundation** contains general provisions and defines the following:
the form of government,
the fundamental principles of state operation,
the transfer of certain powers to the European Union,
Hungary's capital and regional administrative entities,
the key provisions on Hungarian citizenship and how to obtain it,
Hungary's official language, coat of arms, flag, national anthem, national holidays and official currency,
the Fundamental Law's place in the Hungarian legal system, i.e. the Fundamental Law is the foundation of Hungary's legal system,
the procedure for adopting and amending the Fundamental Law,
the types of Hungarian legislation,

a number of fundamental principles, including:
prohibition on seizing and exercising power by force,
responsibility for the fate of Hungarians living beyond the borders of Hungary,
cooperation in establishing European unity,
protection of the institution of marriage,
ensuring the conditions for fair competition,
the principle of balanced, transparent and sustainable budget management,
the obligation to protect and sustain natural resources,
the creation and preservation of peace and security, and striving to cooperate with all nations and countries of the world to achieve the sustainable development of humanity.
The section entitled **Freedom and Responsibility** sets out fundamental rights and obligations. **The following (among others) are recognised as fundamental rights**:
the right to life and human dignity,
the prohibition of torture, inhuman or degrading treatment or punishment, slavery or servitude, and human trafficking,
the prohibition of all practices aimed at eugenics, any use of the human body or any of its parts for financial gain, and human cloning,
the right to freedom and personal safety, and provisions guaranteeing that no one is deprived of his or her liberty,
the right to freedom of movement and to freely choose residence,
the right to private and family life,
the right to the protection of personal data and access to data of public interest,
the right to freedom of thought, conscience and religion,
the right to peaceful assembly,
the right to freedom of speech,
the right to education and culture,
the right to freely choose one's work, occupation and entrepreneurial activities,
the right to property,
the prohibition on expelling Hungarian citizens from the territory of Hungary,
the right to asylum,
equality before the law,
non-discrimination,
prohibition of child labour,
the right to a healthy environment,
the right to vote and to stand as a candidate in the elections of Members of the Hungarian Parliament, local representatives and mayors, and of Members of the European Parliament,
the right to have one's affairs administered by the authorities in an impartial, fair and reasonably timely manner,
the right of every Hungarian citizen to be protected by Hungary during his or her stay abroad,
and the Fundamental Law also defines the rights of nationalities and the principal rights of persons subject to criminal proceedings.
According to the Fundamental Law, Hungary strives, among other things, to:
provide social security to all of its citizens,
provide every person with decent housing and access to public services.
The Fundamental Law also lays down various **obligations**, namely:
the obligation to contribute to satisfying common needs (sharing of public burdens), and
the obligation for Hungarian citizens to defend their country.
The section of the Fundamental Law entitled **The State** contains the most fundamental rules applying to public dignitaries and the most important institutions of the country, setting out the legal status and tasks of:
the Parliament,
the President of the Republic,
the Government,
the autonomous regulatory bodies,
the Constitutional Court,
the judiciary and prosecution services,
the Commissioner for Fundamental Rights,
the local governments,
the National Bank of Hungary,
the State Audit Office,
the Hungarian Armed Forces
the police and the national security services,
the national referenda.
The section of the Fundamental Law entitled **Special Legal Orders** contains rules governing states of national crisis, states of emergency, states of preventive defence, unexpected attacks and states of extreme danger.

2. Acts of Parliament

In Hungary, Acts are adopted by the **Parliament**. The Fundamental Law requires that **rules for fundamental rights and obligations** are determined by Acts. Acts of Parliament are adopted by a **simple majority of votes** (more than half of the votes of the members present). This does not apply to so-called **cardinal Acts** defined by the Fundamental Law, the adoption and amendment of which require a **two-thirds** majority of the votes of Members of the Parliament **present**. According to the Fundamental Law cardinal Acts apply for example to citizenship, the churches, the rights of the national minorities living in Hungary, the legal status and remuneration of Members of Parliament and of the President of the Republic, the Constitutional Court, the local governments, the detailed rules for the use of the coat of arms and the flag, and the provisions on state decorations.

According to the Fundamental Law the authorisation to recognise the binding nature of the European Union's founding and amending Treaties, the declaration of a state of war, conclusion of peace and declaration of a state of special legal order require a two-thirds majority of the votes of all Members of Parliament.
Prior to the adoption of Act XXXI of 1989 on the amendment of the Constitution, the Presidential Council of Hungary was authorised to issue decree laws. From the point of view of legislative hierarchy, decree laws still in force qualify as regulations at the same level as Acts.

3. Decrees

The Fundamental Law recognises government decrees, Prime Ministerial decrees, ministerial decrees, decrees by the Governor of the National Bank of Hungary, decrees by the heads of autonomous regulatory bodies and local government decrees. In a state of national crisis the National Defence Council, and in a state of emergency the President of the Republic, can also issue decrees.

3.1. Government decrees

The **Government's** authority to enact **decrees** may be **primary or based on powers delegated to it by Acts**. The primary powers are established by Article 15 (3) of the Fundamental Law, which states that the Government may issue decrees within its sphere of authority on any matter not regulated by an Act. No decree of the Government shall conflict with any Act. This does not restrict the powers of the Parliament, which may consider any regulatory field under its authority.
Under the Fundamental Law and Act CXXX of 2010 on legislation, the Government may, also based on specific legislative authority, enact decrees that implement Acts. Under Section 5(1) of Act CXXX of 2010an authorisation to issue implementing regulations must specify the holder, subject and scope of the authority. The holder of the authority may not pass legislative authority to another party.

3.2. Prime Ministerial decrees

According to the Fundamental Law the Prime Minister can also issue decrees, e.g. appoint a deputy prime minister from among the ministers by decree. Prime ministerial decrees are ranked at the same level as ministerial decrees in the hierarchy of legislation.

3.3. Ministerial decrees

Ministerial decrees are ranked below government decrees in the hierarchy of legislation. According to the Fundamental Law ministers adopt decrees **by authority** of an Act or a government decree (issued within their original legislative competence), whether independently or in agreement with any other minister; such decrees may not conflict with any Act, government decree or decree of the Governor of the National Bank of Hungary.

3.4. Decrees of the Governor of the National Bank of Hungary

Acting within his or her competence defined by a cardinal Act, the Governor of the National Bank of Hungary may issue **decrees by statutory authorisation**, which may not conflict with any law.

3.5. Decrees of the heads of autonomous regulatory bodies

According to Article 23(4) of the Fundamental Law, acting within their competence defined by a cardinal Act, the heads of autonomous regulatory bodies issue decrees by statutory authorisation, which may not conflict with any Act, government decree, Prime Ministerial decree, ministerial decree or with any decree of the Governor of the National Bank of Hungary.

3.6. Local government decrees

According to Article 32(2) of the Fundamental Law, acting within their competences, local governments may adopt local decrees in order to regulate local social relations not regulated by an Act or by authority of an Act. Local government decrees may not conflict with any other legislation.
The detailed rules on decrees to be adopted by local government representative bodies are laid down in Act CLXXXIX of 2011 on Hungary's local governments.

4. International agreements and the fundamental principles of international law

The Government of Hungary may conclude **international agreements** with other states or the governments of other states. In Hungary, the relationship between international agreements and domestic law is based on a dualist system; that is, international agreements become **part of national law** via their **promulgation** by legal regulations.

Principles of international law

According to Article Q(3) of the Fundamental Law, Hungary accepts the generally recognised rules of international law. Customary international law and the general principles of international law become part of domestic law without the need for transformation.

II. Non-legislative sources of law

1. Legal instruments of state administration

The Hungarian legal system includes legal instruments of state administration which, although they contain normative provisions, do not qualify as legislation. The Legislation Act (Act CXXX of 2010) defines two types of legal instruments of state administration: normative decisions and normative orders. These are rules of conduct that are not generally binding, i.e. not binding on everyone. They are merely internal provisions, organisational and operational rules relating solely to the issuer or subordinated bodies or persons. Normative decisions and orders cannot determine the rights and obligations of citizens. Legal instruments of state administration cannot conflict with other legislation and cannot repeat legislative provisions.
Under the former Legislation Act (Act XI of 1987) **statistical communications** and **legal guidelines** also qualified as sources of law (known as other legal instruments of governance) not qualifying as legislation. The new Legislation Act no longer mentions them. However, whereas legal guidelines were repealed when the new Act entered into force (on 1 January 2011), statistical instruments issued prior to that date remain in force until they are repealed. (Statistical communications are issued by the President of the Central Statistical Office and contain legally binding provisions, consisting exclusively of statistical terms, methods, classifications, lists and figures.)

1.1. Normative decisions

In normative decisions the Parliament, the government and other central administrative bodies, the Constitutional Court and the Budget Council may lay down their own organisation and functioning, activities and action programmes.
Local government representative bodies can also lay down their own activities and those of bodies run by them, as well as their action programmes and the organisation and functioning of bodies run by them in normative decisions. Similarly, the representative body of national self-governments can lay down their own organisation and functioning, activities and action programmes as well as those of bodies run by them in normative decisions.

1.2. Normative orders

Within their remit and as provided for in legislation, the President of the Republic, the Prime Minister, the head of central administrative bodies (with the exception of the government), the President of the National Judicial Office, the Supreme Prosecutor, the Commissioner for Fundamental Rights, the Governor of the National Bank of Hungary, the President of the State Audit Office, the head of the metropolitan or county government office, mayors and town clerks may lay down the organisation, functioning and activities of bodies led, run or supervised by them in normative orders.
Moreover, the Parliament, the President of the Republic, the Constitutional Court, the Commissioner for Fundamental Rights, autonomous regulatory bodies, the Prime Minister's Office and the head of the official organisation of the ministry may issue normative orders which are binding on the organisation's staff..

2. Decisions of the Constitutional Court

Decisions of the Constitutional Court play an important role in the Hungarian legislative system.

According to Act CLI of 2011 on the Constitutional Court the **tasks** of the Constitutional Court are as follows:

ex post review of the compliance of legislation with the Fundamental Law (ex post review procedure);

ex ante review of the compliance of Acts that have been adopted but not yet promulgated and certain provisions of international treaties with the Fundamental Law;

an individual review at the request of a judge: if in the course of hearing a case a judge is to apply a piece of legislation which he or she considers unconstitutional or which the Constitutional Court has found to be unconstitutional, he or she shall suspend the proceedings and ask the Constitutional Court to find the piece of legislation or legislative provision unconstitutional and prohibit the unconstitutional piece of legislation from being applied;

handing down judgments on constitutional complaints based on violation of rights guaranteed in the Fundamental Law: the person or organisation involved in the individual case may lodge a constitutional complaint if his, her or its right guaranteed in the Fundamental Law is breached following the implementation of the unconstitutional legislation in the judicial proceedings on going in the case, and he, she or it has exhausted all appeal options or does not have any right of appeal;

examining any legislative act for conflict with any international agreement;

termination of legislative omissions by the legislator which conflict with the Fundamental Law;

resolution of certain conflicts of competence between state bodies or between local governments and other state bodies;

interpretation of provisions of the Fundamental Law;

miscellaneous proceedings falling under its competence according to provisions of law.

The Constitutional Court provides detailed reasons for its decisions. Constitutional Court decisions may not be appealed and are binding on all.

3. Case law of the courts

In order to fulfil its responsibility of ensuring the uniform application of law and providing judicial guidance to lower courts, Hungary's supreme court, the **Curia** (known prior to 1 January 2012 as the Supreme Court) passes **judicial uniformity decisions** and issues **judicial decisions of principle**.

A **judicial uniformity procedure** can be initiated if the development and uniformity of judicial practice requires the adoption of a judicial uniformity decision in a matter of principle, and if a chamber of the Curia intends to deviate from the decision taken by another chamber of the Curia. A decision relating to uniformity in the law is binding on the courts.

Decisions of principle derive from the practice of the Curia's judicial chambers and also promote uniformity in sentencing

Decisions handed down to ensure uniformity in law and decisions of principle are published in the **Supreme Court's Official Repertory of Decisions**.

III. Scope of application of legislation

The geographical scope of application of legislation extends to the territory of Hungary, while that of local government decrees extends to the administrative area of the local government. The personal scope of application of legislation extends to natural persons, legal persons and organisations without legal personality in the territory of Hungary, Hungarian citizens outside the territory of Hungary, and in the case of local government decrees to natural persons, legal persons and organisations without legal personality in the administrative area of the local government.

The Legislation Act prohibits **retroactive validity**, stating that a piece of legislation cannot establish obligations or make them more onerous, withdraw or restrict rights or declare conduct illegal in the period preceding its entry into force.

Legislation must always establish the date of its **entry into force** in such a way that sufficient time is available to prepare for its application.

The **legislation** and its i**mplementing regulations** must enter into force at the same time. A piece of legislation (or a legislative provision) becomes invalid if it is repealed or – if it contains only amending or repealing provisions – on the basis of the Legislation Act.

IV. Legal databases

In Hungary the Official Gazette is the Magyar Közlöny, which is published in electronic form and whose text must be considered authentic..

The Hungarian Official Gazette contains Hungarian legislation (excluding local government decrees), including:

orders and decisions of the Constitutional Court, which must be published in the Hungarian Official Gazette in line with legal provisions or on the basis of a decision by the Constitutional Court;

decisions of the Parliament;

judicial uniformity decisions of the Curia;

opinions of the National Election Committee;

annexure, including the Collection of Decisions;

the Official Report.

The National Legislation Database (Nemzeti Jogszabálytár) contains all legislation (excluding local government decrees) and legal instruments of state administration in force on the date of the search. This is presented in a consolidated version, together with amendments and other changes.

You can search for this information by title and number, and it is also possible to search the text.

Access to these databases is **free of charge**, and no restrictions apply.

Related links

Authentic Electronic Official Gazette

National Legislation Database

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National legislation - Malta

This page provides information on the legal system in Malta.

Sources of law

Acts of Parliament (Primary Legislation);

Regulations, Rules, Orders, Bylaws (Subsidiary Legislation); and

EU Law including decisions of the ECJ.

The Constitution is the basic source of national law and stipulates that laws are passed by Parliament in the form of Acts of Parliament, but that Parliament may delegate legislative powers to other bodies (i.e. ministers, authorities, public bodies etc.) which are empowered to make subsidiary legislation within the sphere of authority delegated to them by an Act of Parliament.

The national legal order must also be viewed in the context of EU legislation, and especially the Treaty of Accession.
In Malta, there is no judge made law: The Court interprets the law as contained in the various enactments. This does not mean however that judicial precedents are not authoritative. In fact judges as a general rule do not depart from a well settled principle established by case law, if not for grave reason. It is also the practice in the Inferior Courts to follow the principle laid down on points of law by a Superior Court.

Types of legal instruments - description

International treaties may also form part of Malta's domestic legislation.

The European Convention on Human Rights

By virtue of an Act of the Maltese Parliament, Act XIV of 1987, the European Convention of Human Rights was incorporated into Maltese law. No law in Malta may be inconsistent with the rights and freedoms set out in the Convention. The power of review is vested in the Courts.

Hierarchy of norms

At national level, the Constitution is the supreme law of the land, followed by Acts of Parliament, followed by subsidiary legislation. However, as noted above, the Treaty of Accession and EU regulations are legally binding and operative in Malta, as in all Member States, and must be taken into account along with EU law in general.

Institutional framework

Institutions responsible for the adoption of legal rules

In essence, a system of checks and balances between the legislature, executive and judiciary is followed. While the three pillars exercise legislative, executive and judicial powers in their own sphere, the system of checks and balances, which Malta inherited from English principles of the rule of law, allows smooth operation of the legal system in Malta.

Decision - making process

Malta follows the British parliamentary system, which is not surprising following 180 years of British rule. A minister proposes a draft law, which is then published in the Gazette for a first reading to be given in Parliament. Depending on the importance of the law in question a white paper may or may not be published beforehand. The House of Representatives then forms a committee and, after a second reading where members of Parliament are given the opportunity to comment in general terms on the particular piece of legislation in question, the Committee Stage examines each and every article in detail and proposes any amendments. When the Committee Stage is completed the Bill is sent back to Parliament for a final third reading, is subsequently given assent to by the President of the Republic and then becomes law.
The general rule is that a law enters into force on the date of publication, unless specifically stated in the law itself that the minister concerned may bring the law (or part of the law) into force on a different date.

Legal databases

National Legislative Database: Laws of Malta – Legal Services
The service gives free access to:
All national main and subsidiary legislation;
Legal publications including acts, bills, legal notices and by laws.

Related Links

Laws of Malta

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Jekk jogħġbok innota li l-verżjoni bil-lingwa oriġinali ta' din il-paġna nl ġiet emendata reċentement. Il-verżjoni tal-lingwa li qed tara bħalissa attwalment qed tiġi ppreparata mit-tradutturi tagħna.

National legislation - Netherlands

This page provides you with information about the judicial system in the Netherlands.
The Dutch Government consists of the Ministers and the King. To that extent, the Netherlands is something of an exception among the Western European monarchies, in most of which the monarch is not part of the government. Since the comprehensive review of the Constitution in 1848 the Netherlands has been a constitutional monarchy with a parliamentary system.

Sources of law

Types of legal instrument - description

The Constitution provides the framework for the organisation of the Dutch state and forms the basis for legislation. Treaties between the Netherlands and other states are a major source of law. Article 93 of the Constitution stipulates that provisions of treaties and of decisions by international institutions may have direct effect in the Dutch legal system, in which case these provisions take precedence over Dutch laws. Statutory measures that are in force within the Kingdom of the Netherlands do not apply if they are incompatible with those provisions. Therefore, the rules of the European Union laid down in treaties, regulations and directives are a major source of law in the Netherlands.
The Charter for the Kingdom of the Netherlands governs the constitutional relationship between the Netherlands, Aruba, Curaçao and Sint Maarten.
Laws are made at national level. By means of delegation by law, the central government may lay down (further) rules in orders in council and in ministerial regulations. Independent orders in council (which are not derived from a law) are possible too. The Constitution confers regulatory authority upon the lower bodies under public law (provinces, municipalities and water boards).
Case law is a source of law, as court rulings have wider significance than the specific case in which the ruling was pronounced. The rulings of higher courts serve as guidance. Rulings of the Supreme Court are particularly authoritative as the task of this court is to promote uniformity in the law. In new cases, therefore, the lower court will consider a ruling of the Supreme Court when reaching judgment.
General principles of law are of relevance to government and the dispensation of justice. Sometimes the law refers to general principles of law, like the Civil Code does (reasonableness and fairness). The court may also take its cue from general principles of law when passing judgment.
Customary law, also known as unwritten law, is a further source of law. In principle, a custom is only relevant if the law refers to it, but still the court may take account of custom in its judgment in the event of conflict. Customary law cannot be a source of law when establishing a criminal offence (Article 16 of the Constitution).

The hierarchy of sources of law

Article 94 of the Constitution states that some rules of international law take hierarchical precedence: statutory provisions that are incompatible with these rules of international law do not apply. European law, by its nature, takes precedence over national law. This is followed by the Charter, the Constitution and Acts of Parliament. These rank above other measures. Acts of Parliament are adopted jointly by the government and the States General (the people's elected representatives).

It is also stipulated that a law may wholly or partly lose its effect only as a result of a subsequent law. In addition, there is a general rule of interpretation that specific laws rank above general laws. Furthermore, in the continental tradition, written law is considered to be a higher source of law than case law.

Institutional framework

The authorities responsible for adopting legal provisions

The legislative process

Acts of Parliament are adopted jointly by the government and the States General. Legislative proposals can be submitted by the government or the Lower House of the States General. The Council of State advises on legislative proposals, as well as on orders in council. Other stakeholders are generally consulted when a legislative proposal is being prepared.

Usually, the Council of Ministers adopts legislative proposals and sends them to the Advisory Division of the Council of State for its recommendation. The government responds to that recommendation by drawing up a further report. Then, the government sends the legislative proposal – with any necessary amendments – to the Lower House by Royal Message. The proposal may be amended while it is being debated by the Lower House. It is the Lower House that has the right of amendment. Once it has been accepted by the Lower House, the Upper House debates the proposal. The Upper House may only adopt or reject the legislative proposal. No further amendments may be made at this stage. Once it has been accepted by the Upper House, the legislative text is signed by the King and the Minister, after which it becomes law.

Legal databases

Overheid.nl is the central access point for all information about the government organisations of the Netherlands. This page provides access to local and national legislation.

Officielebekendmakingen.nl provides access to the official gazettes (*'Staatsblad'*, *'Staatscourant'* and *'Tractatenblad'*). You can also find all Dutch Parliament publications on the website.

Is access to the database free of charge?

Access to the websites is **free of charge**.

Related links

National government

Regering

Ministry of Foreign Affairs

House of Representatives

Government.nl

Houseofrepresentatives.nl

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National legislation - Austria

Introduction – This page provides information on the Austrian legal system and an overview of Austrian law.

Sources of law

Types of legal instruments - description

Austrian law is primarily written (*gesatztes*) law.

Under Austria's Constitution, each of the **nine provinces** (*Bundesländer*) is subject to its own **provincial constitutional law** in addition to federal constitutional law. Provincial constitutional law must not be inconsistent with federal constitutional law, and is therefore **subordinate** to it. But in principle there is no such order of precedence between federal laws and the laws of the provinces. Since 1988, the provinces have also been able to conclude international treaties on matters falling within their jurisdiction. In foreign affairs, however, the federal government continues to enjoy supremacy.

Status of customs and case law

Customary law plays only a very limited role.

The judgments of the highest courts provide valuable guidance on the application of the law and are of major importance. However, case-law is not formally recognised as a source of law.

Measures taken by local authorities

Sovereign acts with state authority (i.e. prescriptive legal acts of the authorities) encompass laws (legislative acts), administrative acts (acts of the executive) and judicial decisions (judicial acts).

The laws must specify which administrative acts the administrative authorities are empowered to perform. Administrative authorities may, for example, be given powers to issue decisions (individual legal acts) or to adopt regulations (general rules of law). They may also be given powers to issue direct orders or to use direct force if, for example during a police operation, immediate action by the authorities is required in order to avert danger.

International sources of law and European Union law

The Austrian **Constitution** (*Bundes-Verfassungsgesetz* - Federal Constitutional Law) declares that the generally recognised rules of international law form part of Austrian federal law and provides for the incorporation of **international treaties** into Austrian law (with or without specific legislation). The ranking of treaty provisions within the domestic legal system is determined by their content.

In order to be approved in the Nationalrat (the lower house of the Austrian Parliament), international treaties that amend or supplement the Constitution require the same enhanced majorities as decisions concerning federal constitutional laws. Treaties that amend or supplement laws must meet the same requirements as apply when laws are passed.

International treaties are concluded by the Federal President on the instruction of the federal government or of a federal minister so empowered by the government. Political treaties that amend or supplement laws require the prior approval of the Nationalrat. The Federal President may confer upon the federal government or the relevant members of the federal government the power to conclude certain categories of international treaties which are not political and do not amend or supplement laws.
Since **Austria's accession to the European Union** on 1 January 1995, Austria's essential basic legal order has no longer been determined by Austrian constitutional law alone but also by EU law (**dual constitution**). The prevailing view is that **EU law takes precedence over domestic law** and thus over ordinary federal constitutional law, but not over the guiding principles of the Constitution.

Most important acts/legislation

Civil law

In civil matters, first-instance jurisdiction is as a rule exercised by district courts (*Bezirksgerichte*) and regional courts (*Landesgerichte*). Outside Vienna, commercial cases were heard also by district courts and regional courts. In addition, the regional courts hear labour and social security cases. Only Vienna has a separate district court for commercial matters (*Bezirksgericht für Handelssachen Wien*), a separate commercial court (*Handelsgericht Wien*) and a separate labour and social court (*Arbeits- und Sozialgericht Wien*).
Jurisdiction is shared out between the courts according to the type of lawsuit (subject-matter jurisdiction) and, for all matters not assigned in this way to district or regional courts, depends on the amount in dispute. The nature of the case always takes precedence over the value criterion.
On the basis of the type of lawsuit, district courts have jurisdiction, for example, in most family-law or lease disputes, whilst the regional courts have jurisdiction, for example, in disputes under the Nuclear Liability Law (*Atomhaftpflichtgesetz*), the Public Liability Law (*Amtshaftungsgesetz*), the Data Protection Law (*Datenschutzgesetz*) and competition and copyright law. District courts have jurisdiction in cases where the amount in dispute is up to EUR 15 000; regional courts have jurisdiction in cases where the amount in dispute is above EUR 15 000.
Everyone has an ordinary place of jurisdiction (*allgemeiner Gerichtsstand*) on the basis of their personal connection with a court district. As a rule, lawsuits are filed in the defendant's ordinary place of jurisdiction. The ordinary place of jurisdiction of a private individual usually depends on their place of domicile (*Wohnsitz*) or habitual residence (*gewöhnlicher Aufenthalt*); a person may have more than one ordinary place of jurisdiction. The ordinary place of jurisdiction of a legal entity usually depends on the location of its registered office.

Commercial law

Only Vienna has specialised civil courts for commercial matters, namely the Vienna District Court for Commercial Matters (*Bezirksgericht für Handelssachen Wien*) and the Vienna Commercial Court (*Handelsgericht Wien*), and a specialised civil court for labour and social security cases, namely the Vienna Labour and Social Court (*Arbeits- und Sozialgericht Wien*). In all other districts, commercial cases and cases involving labour and social security law are heard by the ordinary courts. Territorial jurisdiction in commercial cases and cases involving labour and social security law is generally regulated by the ordinary rules of civil procedure.

Administrative law

In broad terms administrative law, being 'public' law, regulates the organisation and procedure of administrative bodies and authorities. However, it also regulates relations between the State and its citizens, the obligations of the addressees of the legislation with regard to conduct, and substantive decision-making criteria for public administration. Some examples of the numerous specific areas of administrative law are the law on citizenship and foreign nationals, police law and building law.
Administrative criminal law regulates not only criminal conduct that is punishable by a court but also administrative infringements that are penalised under that law.
Other sub-areas of administrative law contain provisions on administrative procedure and (administrative) legal protection. Decisions of administrative authorities, e.g. administrative decisions (*Bescheide*), can be challenged before an administrative court (*Verwaltungsgericht*) by means of an appeal.
Hierarchy of legal instruments
Federal constitutional legislation must be passed by a majority of two thirds of the votes cast in the Nationalrat, with at least half the members being present. In addition, the legislation thus created must be expressly designated as a 'constitutional law' or 'constitutional provision'.
By contrast, a valid resolution on a federal law requires the presence of at least one third of the members of the Nationalrat and an absolute majority of the votes cast.

1. Guiding principles of the Constitution

The guiding principles (*Grundprinzipien*) of the Austrian Constitution are the most important foundations for the law of Austria:
the democratic principle
the principle of the separation of powers
the principle of the rule of law
the republican principle
the federal principle and
the liberal principle.
Together, these guiding principles form the **basic constitutional system**.
They are of exceptional constitutional importance. If an amendment to the Constitution results in the abandonment of any of the guiding principles or fundamentally changes the relationship between those principles, this is deemed to be a **fundamental reform** (*Gesamtänderung*) and **a referendum must be held**.

2. Primary and secondary EU law

Austria's accession to the European Union on 1 January 1995 constituted a fundamental reform of the Austrian Constitution. Since accession, Austria's essential basic legal order has no longer been determined by Austrian constitutional law alone but also by EU law (**dual constitution**). The prevailing view is that **EU law takes precedence over domestic law** and thus over ordinary federal constitutional law, but not over the guiding principles of the Constitution.

3. 'Ordinary' federal constitutional law

Constitutional law lays down the rules for political action, as it specifies:
the legislative process,
the position of the highest bodies within the State,
the relationship between the federal government and the provinces in the legislative process and the application of the law, and
the control of government action by the courts of public law.

4. Federal laws

Under the fundamental principle of the rule of law enshrined in the Constitution, all application of a law (by public administration and in the courts) must be in accordance with that law. The Constitution divides legislative powers between the federal government and the provinces.

5. Regulations

Regulations (*Verordnungen*) are **general legal provisions made by the administrative authorities** which bind all persons subject to the law equally. The Constitution confers a general authorisation to make implementing regulations fleshing out the rules laid down in more general provisions, usually laws. Regulations may amend or supplement laws only where there is express authorisation in the Constitution.

6. Decisions

Decisions (*Bescheide*) are primarily administrative acts applying the law which are addressed only to the persons named in those decisions.

Legislative process

Legislative initiative

Draft laws may be presented to the Nationalrat in the following ways:

In addition, a citizens' initiative must be presented to the Nationalrat for discussion if it is signed by more than 100 000 voters, or by one sixth of the voters in each of three provinces.

In practice, most legislative initiatives originate from the federal government. Federal government bills must be approved by the federal government (in cabinet) unanimously. They are drafted by the relevant minister and comments are invited from other bodies (such as the provinces and other stakeholders) before they go to the federal government for approval.

Adoption of the law

After being passed by the Nationalrat, draft laws require the assent of the Bundesrat (the upper house of the Austrian Parliament). (Federal finance laws do not have to be presented to the Bundesrat – federal sovereignty of the Nationalrat.) The Chancellor then presents the law to the President for certification.

The Nationalrat may resolve that a referendum is to be held on a draft law. A referendum may also be required by a majority of the members of the Nationalrat. In such cases, the draft law which has already passed the Nationalrat must then be approved by referendum before it is certified.

A referendum is also required for any fundamental reform of the Constitution.

The President certifies that a law has been passed in accordance with the Constitution by signing it. That certification must then be countersigned by the Chancellor.

A law can be repealed either expressly (formal derogation) or by the passing of a new federal law whose content is inconsistent with the earlier provision (material derogation), without a formal order that the earlier provision cease to apply (*lex posterior derogat legi priori*). Specific laws take precedence over general laws (*lex specialis derogat legi generali*). Furthermore, the period for which a law will be valid may be limited from the outset.

Promulgation, publication and entry into force

Once a federal law has been signed by the President (to certify that it has been passed in accordance with the Constitution) and countersigned by the Chancellor, it is promulgated in the Federal Law Gazette (*Bundesgesetzblatt*).

A law enters into force at the end of the day on which it is promulgated in the Federal Law Gazette unless the law itself provides otherwise (retroactive effect or deferral).

Means of resolution of conflicts between different legal sources

As an expression of the fundamental principle of the rule of law, the Constitutional Court (*Verfassungsgerichtshof*) has the power to review the constitutionality of laws and the legality of regulations (judicial review).

The Constitutional Court also rules on 'conflicts of jurisdiction', for example between courts and administrative authorities or between provincial and federal bodies when both parties either claim jurisdiction or refuse it in the same matter.

Under its 'power to determine jurisdiction' (*Zuständigkeit zur Kompetenzfeststellung*), the Constitutional Court can also make a binding determination as to whether a law-making act or an application of the law falls within the competence of the federal government or the provinces.

There are no priority rules for resolving conflicts between different higher-ranking laws.

Legal databases (with appropriate links)

Can it be accessed free of charge?

Yes. Legislation and case-law can be accessed free of charge online via the Legal Information System of the Republic of Austria (*Rechtsinformationssystem des Bundes* (RIS)) at https://www.ris.bka.gv.at/.

In which languages is it available?

The database is essentially available only in German. However, some general information and selected legislation are available in English via an English-language access page (see link: RIS Legal Information System (bka.gv.at)).

What are the available search criteria?

The database underlying RIS is divided into various applications, e.g. 'Bundesrecht konsolidiert' (consolidated federal law), 'Landesrecht konsolidiert' (consolidated provincial law), 'Bundesgesetzblatt authentisch ab 2004' (authentic Federal Law Gazette from 2004), 'Staats- und Bundesgesetzblatt 1945 - 2003' (Federal Law Gazette 1945-2003), and other applications. In addition to providing information on the law of the Republic of Austria (e.g. consolidated federal and provincial law, case-law), RIS is also used to give legally binding public notice of, among other things, federal law gazettes (since 2004) and provincial law gazettes (since 2014/2015).

Each application has its own search form with search fields tailored to the application in question. In the most frequently used application 'Bundesrecht konsolidiert' (consolidated federal law), for example, it is possible to search by keyword, title / abbreviated title, publishing body, type of legislation, legislative index number, in-force date, date range, and other criteria. A full-text search in the whole data corpus (where in German) is also possible.

A number of manuals on the various applications are available under 'Hilfe/Kontakt' (Help/Contact). For example, an RIS search manual (see HandbuchBgblAuth.pdf (bka.gv.at)) is provided to assist with searches for federal law gazettes in their legally binding ('authentic') published version.

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National legislation - Poland

This page provides you with information about the legal system in Poland.

Poland is a republic with a democratic form of government. The legislative power is vested in the Parliament, which consists of the lower house – the **Sejm** – and the upper house – the **Senate**. The executive power is vested in the **President of the Republic of Poland (Prezydent Rzeczypospolitej Polskiej)** and the **Council of Ministers (Rada Ministrów)**. The judicial power is vested in the courts and tribunals.

The Polish legal system is based on the continental legal system (**civil law tradition**). The common courts in Poland are the **courts of appeal (sądy apelacyjne)**, **provincial courts (okręg)(sądy okręgowe)** and **district courts (rejon)(sady rejonowe)**. They are competent to hear criminal law cases, civil law cases, family and custody law cases, labour law cases and social insurance cases.

The **administrative judiciary** falls under the High Administrative Court (Naczelny Sąd Administracyjny), which has judicial control of public administration.
The Supreme Court (Sąd Najwyższy) is the highest central judicial organ in the Republic of Poland, and thus the highest court of appeal. The main tasks of the Supreme Court are to administer justice in Poland (together with the common, administrative and military courts), to consider cassation as a form of extraordinary appeal and to adopt resolutions concerning the interpretation of law.
The **Constitutional Tribunal** (Trybunał Konstytucyjny) is an organ of the judiciary. It is competent to decide on:
The conformity of an issued law with the Constitution
Disputes about competence between the organs of central administration
The conformity of political parties' objectives and activities with the Constitution
Constitutional complaints filed by citizens
The English version of the Act governing the Constitutional Tribunal and other related Acts are provided on the Polish Constitutional Tribunal web page.

Sources of law

The sources of Polish law are the Constitution, statutes, ratified international agreements and regulations. The Constitution is considered the most important source of Polish law. It contains information about the Polish law system, institutional organisation, the judicial system and local authorities. It also covers political freedoms and rights. The Constitution that is currently binding was enacted in 1997. The text of the Polish Constitution is available on the website of the Lower house of the Polish Parliament (Sejm) in Polish, English, German, French and Russian.

Types of legal instruments – description

Statutes (ustawy) are universally binding instruments that cover significant issues. Any issue can be the subject of a statute. In some cases, the Constitution imposes an obligation to regulate on a specific issue in a statute: for example, a budget or the legal status of citizens.
According to the Polish Constitution, some **international agreements (umowy międzynarodowe)** must, prior to ratification, be confirmed by a statute, which must be adopted by the parliament and signed by the President. These include issues like alliances; political or military treaties; citizens' freedoms, rights and duties; membership of international organisations, and other issues regulated by the Constitution.
Regulations (rozporządzenia) are issued by the governing bodies named in the Constitution as authorised by statute.
The Council of Ministers is entitled to issue **resolutions (uchwały)** of an internal nature, which are binding only on the organisational units that are subordinate to the institution issuing the resolution; these cannot provide the legal basis for decisions taken concerning citizens, legal persons and other subjects.
The local government authorities and the local authorities of governmental administration can, on the basis of authorisation by statute, enact **local laws (akty prawa miejscowego)** that apply to their areas of administration.

Hierarchy of norms

The Constitution is the first source of Polish law. Other norms in the hierarchy of the Polish Constitution are: ratified international agreements, regulations, directives and decisions of European Union, statutes, orders and Acts of local authorities.

Institutional framework

Institutions responsible for the adoption of legal rules

Legislative power is exercised by the Sejm and the Senate, the two chambers of the **Polish Parliament**. Members are elected to a **four-year term of office**.
The right to introduce legislation belongs to the deputies, the Senate, the President of the Republic of Poland and the Council of Ministers. The right to introduce legislation also belongs to a group of **at least 100,000 citizens**, who have a right to vote in elections to the Sejm.
The Sejm considers Bills in three readings. When a Bill has been adopted by the Sejm and Senate, it is sent to the President for signature. The President may, before signing a Bill, refer it to the Constitutional Tribunal to adjudicate on its conformity with the Constitution.
The Council of Ministers ensures the implementation of **statutes**, issues **regulations**, concludes **international agreements requiring ratification**, and accepts or renounces **other international agreements**.

Decision-making process

Initiation

Legislation can be introduced by deputies, the Senate, the President of the Republic, the Council of Ministers and a group of at least 100.000 citizens entitled to vote in elections to the Sejm.
In most cases, Bills are submitted by the Council of Ministers or by deputies.
A Bill, with its justification, must be submitted to the **Marshal of the Sejm (Marszałek Sejmu)**, who forwards it to the President of the Republic, to the Senate and to the President of the Council of Ministers (prime minister).

Discussion

The Sejm considers Bills in three readings. Bills are also examined by the specified commissions of the Sejm and Senate.

Adoption

The **Senate** must, **within 30 days of submitting a Bill**, adopt it without amendments, adopt amendments or resolve upon its complete rejection. The **Sejm** can reject the amendments of the Senate only by an absolute majority vote in the presence of at least half of the statutory number of deputies.

Proclamation

After the completion of the procedure in the Sejm and the Senate, the Marshal of the Sejm must submit the adopted Bill to the President for signature. The President of the Republic must sign a Bill within 21 days of submission and must order its promulgation in the Journal of Laws of the Republic of Poland (Dziennik Ustaw). Fourteen days later, the Act enters into force. However, the date of **entry into force** can also be set in the text of a Bill. According to the Polish legal system, a Bill can be repealed only by another Bill. The date when the Act or law will lose force of law must be included in the text of the Act or law.

Legal databases

You can find legal Acts dating back to 1918 on the website of the Polish legal database (Sejm), together with a list of these Acts.
Access to the database is **free**.

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National legislation - Portugal

This page provides you with information on the legal system in Portugal.

1 Instruments or sources of law which set out legal rules

The following are traditionally regarded as sources of law in Portugal:

Constitutional laws - which comprise the Portuguese Constitution itself, miscellaneous constitutional laws and laws amending the Constitution;
The ‘rules and principles of general or common international law’, the ‘rules set out in duly ratified or approved international agreements’, ‘rules issued by the competent bodies of international organisations to which Portugal belongs (…) on condition that this is laid down in the respective constituent treaties’ and the ‘provisions of the treaties that govern the European Union and the rules issued by its institutions in the exercise of their respective responsibilities’ − Article 8 of the Constitution;
Ordinary laws, which comprise laws enacted by the Assembly of the Republic, decree-laws issued by the Government and regional legislative decrees adopted by the Legislative Assemblies of the Autonomous Regions of the Azores and Madeira;
Instruments with effect equivalent to that of laws, such as acts approving international conventions, treaties or agreements, generally binding decisions of the Constitutional Court declaring measures to be unconstitutional or illegal, collective labour agreements and other collective instruments regulating labour relations;
Regulations, or legislative instruments of lower status than laws, whose purpose is to supplement laws and fill out the details so that they can be applied or implemented. These comprise implementing decrees, regulations, decrees, regional implementing decrees, decisions, rules, ministerial implementing orders, executive orders, police regulations issued by Civil Governors, and municipal orders and regulations.

2 Other sources of law

Views differ as to the admissibility and importance of other sources outside the sphere of the State’s political power to create written law, depending on whether the sources are regarded as a means of establishing legal rules or a means of disclosing such rules, or both. A distinction is sometimes drawn between direct and indirect sources, which avoids some of the difficulties arising from the differences in basic approach.
The following are commonly referred to as possible sources of law:
Custom, in other words the repeated and habitual adoption of a particular line of conduct that is generally believed to be mandatory. This can be regarded as a source of law only in certain subject areas. Rules created in this way may, for instance, be found in the field of public international law (e.g. the principle of the immunity of foreign States from prosecution), international private law and administrative law.
Case-law, i.e. the set of principles emerging from judgments and decisions handed down by the courts; it is regarded in some quarters as not constituting a genuine source of law but as significant merely in revealing the meaning of legal provisions by providing solutions to problems of interpretation that may be followed in other instances according to the weight carried by the logical and technical arguments on which they are based. Some authors include in this category not only court decisions in specific cases but also judicial rulings which have the force of law (generally binding decisions of the Constitutional Court) because, in their view, they are all instruments which actually create generally applicable law.
Equity, whereby the courts are empowered to formulate legal rules appropriate to the specific features of individual cases under their examination, relying on general principles of justice and the ethical awareness of the judge. ‘The courts may take a decision based on equity only where: (a) there is a legal provision allowing it; (b) there is agreement between the parties and appeal to a higher court is possible; (c) the parties have previously agreed to rely on equity’ − Article 4 of the Civil Code.
Usage, in other words repeated social practices that are not considered to be mandatory but are regarded as important in legal transactions, in particular in the formalisation of legal relations, especially in the field of commerce. Usage may be taken into account by the courts where provided for by law and where it is not ‘contrary to the principles of good faith’ − Article 3 of the Civil Code. Legal rules cannot therefore be created independently through usage, and many do not consider usage to be a genuine source of law.
Legal theory, or the opinions of legal writers, should not be regarded as a genuine source of law, although it plays an important role in the scientific and technical development of legal knowledge and has significant repercussions on the final result of the work of those responsible for interpreting and applying legal rules.

3 Hierarchy of the sources of law

When reference is made to the hierarchy of laws, what is meant is the relative status of the different instruments, in other words their position in an ordered scale.
In this regard, some argue that a hierarchy can be established only on the basis of the method of creation. According to this view, the hierarchy is not based on the relative status of legal rules but is established only between the sources by which they were created.
Whichever view is taken, an order of precedence can be drawn up.
The hierarchical order of the different sources listed in section 1 is as follows:
the Constitution and constitutional laws;
the rules and principles of general or common international law and international agreements (i.e. all the instruments referred to in section 1(b));
laws and decree-laws;
regional legislative decrees;
instruments having an effect equivalent to that of laws;
regulations.

4 Procedures for bringing international rules into force in Portugal

International legislative instruments are transposed into Portuguese law in accordance with the following principles set out in Article 8 of the Portuguese Constitution:
‘The rules and principles of general or common international law form an integral part of Portuguese law’;
‘The rules set out in duly ratified or approved international agreements shall come into force in Portuguese national law once they have been officially published, and shall remain so for as long as they are internationally binding on the Portuguese State’;
‘Rules issued by the competent bodies of international organisations to which Portugal belongs shall come directly into force in Portuguese national law, on condition that this is laid down in the respective constituent treaties’;
‘The provisions of the treaties that govern the European Union and the rules issued by its institutions in the exercise of their respective responsibilities shall apply in Portuguese national law in accordance with Union law and with respect for the fundamental principles of a democratic State based on the rule of law’.

5 The various authorities empowered to adopt rules of law

The authorities empowered to adopt rules of law are the Assembly of the Republic, the Government, the Regional Governments and Legislative Assemblies of the Azores and Madeira, local authorities and certain administrative authorities.

6 Process for adopting these rules of law

The way in which rules are adopted varies according to the specific procedures to be followed by each body responsible for adopting the rules. The different types of legislative instrument are therefore generated through different processes. The two most formal and most important procedures for adopting legal rules are described below.
The most complex procedure, involving the Assembly of the Republic, comprises the following steps:

Initiation of legislation: ‘the power to initiate legislation lies with Members, parliamentary groups and the Government, and also, subject to the terms and conditions laid down by law, with groups of registered electors. The power to initiate legislation in relation to the autonomous regions lies with the respective regional Legislative Assemblies’ (Article 167(1) of the Constitution).
Initial admission, publication, registration, numbering and assessment: this phase involves consideration of the admissibility of the bill, publication of the text in the Assembly of the Republic’s Official Gazette, administrative processing and, finally, evaluation of its content.
Discussion and approval: this involves a debate on general issues, a further debate on specific points, a vote on the bill as a whole, a vote on specific points and a final overall vote. For a bill to be passed, a simple majority, an absolute majority or a qualified majority may be required.
Scrutiny by the President of the Republic within the period laid down by law, following which the President may promulgate the proposed text or exercise the right of veto. In the latter case, the measure is discussed again by the Assembly of the Republic. If the vote is confirmed or amendments are made, the text is again forwarded to the President for promulgation, which must also take place within a pre-established period of time. The President of the Republic is responsible for ‘promulgating laws, decree-laws and regulatory decrees and ordering their publication, and signing resolutions of the Assembly of the Republic that approve international agreements and other Government decrees’ (Article 134(b) of the Constitution).
Publication: once it has been promulgated, the President must order the text of the new legislation to be published in the Official Gazette of the Portuguese Republic.
The procedure whereby the Government adopts legislation comprises the following main steps:
Initiation of legislation: draft legislation is put forward by the office of the minister concerned;
Enquiry: during this stage, the minister proposing the draft must canvass opinions, and the bodies specified by the Constitution and by law must also be consulted;
Preliminary and detailed assessment: proposals are examined and evaluated once they have been initially endorsed.
Approval: although certain types of legislation do not have to be approved by the Council of Ministers, the latter is usually responsible for approving the draft;
Scrutiny: ‘within forty days of the receipt of any government decree for enacting, … the President of the Republic shall either promulgate the decree or exercise his right of veto. In the latter case, he shall inform the Government in writing of the reasons for so doing’ (Article 136(4) of the Constitution);
Publication of the definitive text in the Official Gazette of the Portuguese Republic.

7 Procedures for bringing national rules into force

‘Laws shall be binding only after publication in the Official Gazette.’ ‘Once a law has been published, it shall enter into force after the period stipulated in the law itself has elapsed or, where no such period is stipulated, after the period provided for in special legislation’ (Article 5 of the Civil Code).
Article 2 of Law No 74/98 of 11 November 1998, in its current wording, provides as follows:
‘1. Legislative instruments and other acts of a general nature shall enter into force on the date laid down therein; under no circumstances may they enter into force on the date of publication.’
‘2. If no date is set, the acts referred to in paragraph 1 shall enter into force throughout Portuguese territory and abroad on the fifth day following publication.’
‘4. The time period referred to in paragraph 2 shall start from the day immediately following publication on the internet site managed by *Imprensa Nacional Casa da Moeda, SA*.’

8 Means for settling possible conflicts between different legal rules

The most important role in this regard is played by the Constitutional Court, which must declare to be unconstitutional any rules that conflict with the Portuguese Constitution or the principles enshrined therein.
When considering specific cases laid before them, the courts cannot apply provisions that infringe the Constitution or the principles deriving from it.
During the interpretation process carried out with a view to weighing up the facts submitted for their consideration, the courts must settle any conflicts arising between different legal rules, always having regard to the above-mentioned hierarchy of sources. In doing so, they must consider the system as a unified whole, without acknowledging any gaps or inconsistencies, in particular of a logical or semantic nature, weighing up the circumstances underlying the adoption of the rules and the specific conditions prevailing at the time the proceedings take place. This process always requires a minimum correspondence in wording, even if imperfectly expressed, with the approach taken in the legislation and assuming that the legislature opted for the ‘most judicious’ solutions and was able to ‘express its intentions in appropriate terms’ (Article 9 of the Civil Code).
As far as conflicts between rules in the area of private international law are concerned, please refer to the factsheet on ‘Applicable law’.

Legal databases

Digesto is Portugal’s official legal database and contains the Official Gazette (*Diário da República*).

Digesto — Integrated Legal Information System

Digesto was set up by Council of Ministers Resolution No 48/92 of 31 December 1992 and contains:
Legislative acts published in the 1st and 2nd series of the Official Gazette.
Free, integrated, detailed and up-to-date legal information, more specifically:
the period of validity, date of taking effect and notes relating to acts published in the 1st series of the Official Gazette since 5 October 1910 and miscellaneous documents from previous decades, and acts in the 2nd series of the Official Gazette processed by PCMLEX (central database of the Digesto system);
all relevant information, such as enabling provisions, regulations, implementing legislation, amendments produced and implemented, applicable Community law, administrative guidelines issued by the Directorate-General for the Budget, case law and collective instruments regulating labour relations;
access to three other databases: LEGAÇOR – Azores regional legislative database, REGTRAB – specific database for labour regulations, and DGO–DOUT - specific database containing circulars and opinions issued by the Directorate-General for the Budget.
access, via interoperability with the legal databases of the Ministry of Justice, the Prosecutor-General’s Office (PGR) and the Portuguese parliament (through its database, AP – *Atividade Parlamentar*), to case law emanating from the main courts, to PGR opinions and to all preparatory work on laws from the start of the legislative process up to publication.

Electronic Official Gazette (*Diário da República Eletrónico* – DRE)

Under Decree-Law No 83/2016 of 16 December 2016, the Official Gazette is a public service with free and universal access, published solely online. This public service is provided by *Imprensa Nacional-Casa da Moeda, S. A.* (INCM), which publishes the Official Gazette on its website. Users have free, universal access and are able to consult, print, file and search the content of legislative acts published in the 1st and 2nd series of the Official Gazette, in electronic format.
The service provided by the electronic Official Gazette must include:
the legal text of acts requiring publication in the Official Gazette, under the Constitution and the law, more specifically Law No 74/98 of 11 November 1998, amended and republished by Law No 43/2014 of 11 July 2014.
a tool for the up-to-date consultation of the consolidated text of relevant legislation (the consolidated text has no legal value);

a tool for the translation of legal terms;
a tool for keyword searches of acts requiring publication in the Official Gazette;
duly processed and systematised legal information;
interconnection with sectoral databases providing additional legal information, more specifically case law, Community law, administrative guidelines and legal theory;
the free sending to subscribers' email accounts of the tables of contents of the 1st and 2nd series of the Official Gazette.

Useful links:

Official Gazette - Portugal

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National legislation - Romania

This page provides you with information about the Romanian legal system and an overview of the law in Romania.

Sources of law

The sources of Romanian law are:
the Romanian Constitution;
legislation adopted by Parliament (constitutional law, organic law and ordinary law);
the decrees of the President of Romania;
legislative acts of the Government (orders, emergency orders, decisions);
legislative acts issued by central government (Ministerial orders, guidelines and regulations);
legislative acts issued by the local government bodies (the County Council, the Local Council, the Bucharest Municipality General Council);
European Union law (regulations, directives);
international treaties to which Romania is a party.

Types of legal instruments – description

The Romanian legal framework includes the following legal instruments:

The Constitution is the supreme law in Romania. It regulates Romania's structure as a national, single and indivisible State, the relations between the executive, the legislative and the judicial powers, and between the public bodies, citizens and legal persons.

Constitutional law emanates from the constituent power, i.e. from the constituent assembly elected and convened for this purpose.

Organic law deals with fields of major importance for the State, such as national borders, Romanian citizenship, the state coat of arms and seal, the legal arrangements for property and inheritance, and the organisation and conduct of referenda; criminal offences, sentences and rules on their enforcement, the organisation and functioning of the Superior Council of Magistracy, of the courts, of the Public Prosecution Service and of the Court of Auditors, the rights of persons harmed by a public authority, national defence, the organisation of government bodies, and political parties.

Ordinary law governs all other fields not covered by organic law. An ordinary law may not amend or modify a higher norm, such as an organic law or the Constitution.

In special cases (parliamentary recesses), certain fields, as established by Parliament, may be governed by **Government orders** based on the delegation of legislative powers. Orders are enacted on the basis of a special act of empowerment within its limits and under its conditions. In an emergency the Government may enact emergency orders in any field if considered necessary.

Government decisions determine how laws are to be effectively enforced or other organisational aspects regarding their application.

Legislative acts (orders and guidelines) **are issued by central government** solely on the basis of and in order to enforce laws, Government decisions and orders.

Acts of the autonomous administrative authorities

Legislative acts passed by local government authorities (County Council, Local Council, Bucharest Municipality General Council) govern fields falling within their competence.

Other sources of law

ECHR case-law and the case-law of EU courts.

Although national case-law is not a source of law, judgments by the High Court of Cassation and Justice in order to ensure the uniform interpretation of certain legal provisions unquestionably represent secondary sources of law. Moreover, the judgments of the Constitutional Court, which produce effects *erga omnes* and not *inter partes litigantes*, may be regarded as secondary sources of law.

Pursuant to Article 1 of Law No 287/2009 on the Civil Code, the sources of civil law are the law, **practices and general principles of law**. Here 'practices' means tradition (customs) and professional practices.

The abovementioned provisions lay down the following rules for the application of practices as a source of law:

Practices apply in cases not provided for by law; where no practices exist, the legal provisions regarding similar cases apply and, in the absence of such provisions, the general principles of law will apply.

In the matters governed by law, practices are applied only insofar as the law refers expressly to them.

Only practices consistent with public policy and accepted principles of morality are recognised as sources of law.

The interested party must prove the existence and content of the practices. Practices published in collections drawn up by the relevant authorised entities or bodies are presumed to exist unless there is evidence to the contrary.

Hierarchy of norms

The hierarchy of norms in Romania is the following:

The Romanian Constitution and constitutional law rank first in the hierarchy of legal rules. All other legislative acts must comply with them.

Organic law ranks second in the hierarchy of law. Parliament enacts organic laws by qualified majority.

Ordinary law constitutes the third category of legal norms. Parliament enacts ordinary laws by simple majority. An ordinary law may not amend or modify organic laws or the Constitution.

Government orders constitute the fourth category of norms.

Government decisions constitute the fifth category of norms in the hierarchy of law.

Legislative acts passed by central government and the autonomous administrative authorities constitute the sixth category of norms in the hierarchy of law;

Legislative acts passed by local government (County Council, Local Council, Bucharest Municipality General Council) rank last in the hierarchy of norms.

Institutional framework

The institutions responsible for the adoption of legislation

In accordance with the Constitution, the State is founded on the democratic constitutional principles of **the separation of powers and of checks and balances between the State powers** (legislative, executive and judicial).

Power is also divided between and exercised by Parliament, the Government and the judicial authorities. The Constitutional Court, the Romanian Ombudsman (*Avocatul Poporului din România*), the Court of Auditors (*Curtea de Conturi*) and the Legislative Council (*Consiliul Legislativ*) also safeguard the balance of powers between public authorities and citizens.

Parliament is the citizens' supreme representative body and the only legislative authority in the country. It comprises the Chamber of Deputies and the Senate. In principle, **legislative power** pertains exclusively to Parliament, but in certain cases it shares this function with the executive (Government) and the electors (citizens).

The Government may enact orders under specific competence legislation adopted by Parliament. In exceptional cases that must be handled urgently, the Government may also enact emergency orders.

Legislative decision-making process

The legislative decision-making process comprises three stages:

1. The governmental or pre-parliamentary stage refers to:

the preparation of the draft legislation at Government level;

the submission of the draft legislation for public debate under the conditions laid down by law;

endorsement by the Legislative Council, at inter-ministerial level and by other institutions;

the adoption of the draft legislation by the Government.

2. The Parliamentary stage refers to:

the submission of the draft legislation act to one of the Chambers (the Chamber of Deputies or the Senate as first Chamber), depending on the competences established under the Romanian Constitution;

discussion and adoption of the report/opinion on the draft legislation act in the standing Parliamentary committees (special committees may also be set up under specific circumstances);

in the plenary session, the first Chamber delivers its opinion on the draft legislation and legislative proposals referred to it within 45 days from the date of their submission to the Standing Bureau;

in the case of codes and other particularly complex legislation, the time limit is 60 days from the date of submission to the Standing Bureau;

for Government emergency orders, the time limit is 30 days.

if these deadlines are exceeded, the draft legislation or the legislative proposal is deemed to have been adopted and is forwarded to the Chamber of Deputies for the final decision.

Draft legislation/legislative proposals are then voted on (approved or rejected) and forwarded to the Decisional Chamber (the Chamber of Deputies or the Senate), which will adopt the final version of the legislative act.

3. The post-parliamentary stage refers to:

the constitutional check on the law (the *a priori* check) (the Constitutional Court confirms the compatibility of the law with the Constitution). This check may be requested by the President of Romania, by the President of either Chamber, by the Government, by the High Court of Cassation and Justice, by the Romanian Ombudsman or by at least 50 deputies or 25 senators, and ex-officio in the case of a Constitutional review.

Finally, **the law is promulgated** by the President within 20 days of receiving it. Where the President requests a re-examination of the law (only one such request is possible) or of its constitutionality, the law will be promulgated within 10 days of its reception after it has been reviewed or after receipt from the Constitutional Court of confirmation that the law complies with the Constitution.

The law enters into force within three days of publication in the Official Gazette of Romania, Part I or on a later date mentioned in the law.

Legal databases

a) The Legislative Portal, managed by the Ministry of Justice, is a law information system which enables quick, free and unrestricted access for any interested person to national law in updated and consolidated form. This application interconnects with the European common gateway to National Law N-Lex.

The Legislative Portal was developed by the Ministry of Justice under a project for which a grant was received from the European Social Fund under the *'Administrative Capacity' Operational Programme.*

The database is updated on a daily basis and provides access to over 150 000 laws from 1989 to date, and to a series of previous relevant laws.

The database may be searched using multiple criteria, such as:

words in the title;

words in the text;

type of document;

document number;

type and number of official publication;

date of publication;

the authority enacting the law, etc.

b) Another legal database in Romania designed, managed and updated by the Legislative Council also provides free public access to Romanian legislation.

This is the online version of the *Directory of Romanian Law*® – the official record of Romanian law which provides have accurate and correct information on the legal status of each law at different moments in time.

The database covers the period between 1864 and the present.

The database may be browsed using the following criteria:

category/type of legislative act;

number;

enactment year (period);

publication interval;

official publication (type, number, year);

keywords in the title;

status of the act (in force, no longer in force);
other criteria (legislative, individual/published, unpublished).
The Intranet of the **Legislative Council** hosts a database updated with detailed legal information needed for the specific activity of endorsing draft legislation and to provide information useful during the legislative process.
c) Another legal database (although organised differently) may also be accessed on the website of the Chamber of Deputies (one of the Parliamentary chambers). Searches may be performed by:
type of legislative act;
number;
date;
public authority which issued the legislative act;
publication date and keywords (in the title and in the main body of the act).

Is access to the database free of charge?

Yes, access to the database is **free of charge**.

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National legislation - Slovenia

This page provides information on the legal system in Slovenia.

Sources of law

Types of legal instruments – description

Abstract legal norms in the legal system of the Republic of Slovenia are adopted at both the state and local level. The legal instruments at state level are the Constitution (*ustava*), laws/acts (*zakoni*) and implementing regulations, which fall into two main categories: decrees (*uredbe*, occasionally translated as regulations) and rules (*pravilniki*).
Local councils principally adopt ordinances (*odloki*).
The legal system in Slovenia does not recognise judicial precedence as a mandatory source of law, which means that lower-instance courts (*nižja sodišča*) are not formally bound by the decisions of higher-instance courts (*višja sodišča*). However, lower-instance courts tend to observe and follow the case law of higher-instance courts and the Supreme Court (*Vrhovno sodišče*).
The Supreme Court, sitting in a plenary session, may adopt **legal opinions of principle** (*načelna pravna mnenja*) on issues important to the uniform application of laws/acts. Under the Courts Act (*Zakon o sodiščih*), such legal opinions of principle are only binding on panels of the Supreme Court and may be changed only at a new plenary session. However, lower-instance courts tend to observe legal opinions of principle, and the Supreme Court, in its case law, demands that due consideration be given to a party quoting an already adopted legal opinion on the issue in question.
Laws/acts and other regulations must comply with generally accepted principles of international law, and treaties that are binding on Slovenia (as set out in Article 8 of the Constitution). Ratified and published international treaties must be applied directly. The position of the Slovenian Constitutional Court (*Ustavno sodišče*) is that international treaties rank above statutory provisions in the hierarchy of legal acts. Ratified international treaties are integrated into the national legal system, thereby creating rights and obligations for natural and legal persons in the country (provided they are directly enforceable).
The Slovenian legal system belongs to the continental legal family and is a civil law system, which means that common law is not, as such, a part of the legal system. However, common law enjoys some recognition by Slovenian law. For example, under Article 12 of the Obligations Code (*Obligacijski zakonik*), which regulates contracts between natural and legal persons, business customs, usages and practice established between parties are taken into consideration in the assessment of the action required and its effects on the obligatory relationships of commercial entities.
In exercising his or her judicial office, a judge is bound by the Constitution, laws/acts, general principles of international law and ratified and published international treaties. The Courts Act provides that, if a civil law matter cannot be solved on the basis of valid regulations, the judge must take into account the regulations that apply in similar cases. If, in spite of this, the solution to the matter remains legally doubtful, he or she must make a decision based on the general principles of the national legal order. In this, he or she must act in accordance with the legal tradition and the established principles of jurisprudence. The judge must always act as if he or she has before him or her an indefinite number of cases of the same kind.

Hierarchy of norms

All legal norms must be in conformity with the Constitution. Laws/acts and other regulations must comply with generally accepted principles of international law, and treaties that are binding on Slovenia (as set out in Article 8(1) of the Constitution). Implementing regulations and local ordinances must, in addition, be in conformity with laws/acts.
General acts issued for the exercise of public authority (*splošni akti za izvrševanje javnih pooblastil*) must be in conformity with the Constitution, laws/acts and implementing regulations.
Individual acts and the actions of state authorities, local community authorities and bearers of public authority must be based on an adopted law/act or statutory regulation.
As to the primacy of law of the European Union, the Constitution provides the basis for the Slovenian legal system to accept its primacy, by stating that legal acts and decisions adopted within international organisations to which Slovenia has transferred the exercise of part of its sovereign rights (in this case, the European Union) must be applied in Slovenia in accordance with the legal regulation of these organisations.

Institutional framework

Institutions responsible for the adoption of norms

Laws/acts are adopted by the lower chamber of the Slovenian bicameral parliament, the **National Assembly** (*Državni zbor*). In line with Articles 80 and 81 of the Constitution, the National Assembly is composed of 90 deputies representing the citizens of Slovenia. Eighty-eight deputies are elected by universal, equal, direct and secret vote. One deputy of the Italian national community and one deputy of the Hungarian national community must always be elected to the National Assembly by the members of those communities. The National Assembly is elected for a term of four years.
Decrees are issued by the **Government** (*Vlada*), whereas **rules** are issued by **individual ministers** of the Government. In line with Articles 110–119 of the Constitution, the Government is composed of a Prime Minister (*predsednik vlade*) and ministers. Within the scope of their powers, the Government and individual ministers are independent and accountable to the National Assembly, which can impeach them (before the Constitutional Court), vote no confidence or terminate their office by way of interpellation. The Prime Minister is elected by the National Assembly, after which he or she proposes the ministers to be appointed (and dismissed) by the National Assembly.

The **Constitutional Court** plays a crucial role in the institutional framework, as it may annul laws/acts, implementing regulations and local ordinances it deems unconstitutional. It also issues opinions on the constitutionality of international treaties and decides on individual constitutional complaints of aggrieved citizens, which may be lodged after all other remedies have been exhausted.
Local ordinances are adopted by local councils (*občinski sveti, mestni sveti*), which are directly elected by residents of a municipality.

Decision-making process

The adoption of laws/acts can be proposed to the National Assembly by the Government, by individual deputies of the National Assembly, by the upper chamber of the Parliament – the National Council (*Državni svet*), and by five thousand voters. According to its Rules of Procedure (*Poslovnik Državnega zbora*), the regular procedure in the National Assembly consists of three readings of the proposed law/act.
In addition, an expedited, emergency procedure is envisaged by the Rules of Procedure. According to Article 86, the National Assembly may pass a decision if a majority of the deputies are present and if the law/act is adopted by a majority of votes cast by those deputies present, unless a different type of majority is stipulated. The National Council may veto an adopted law/act, and the National Assembly can override such a veto by a majority of all deputies.
The **legislative referendum** (*Zakonodajni referendum*) (as defined in Article 90 of the Constitution) is regulated in the Referendum and Public Initiative Act (*Zakon o referendumu in o ljudski iniciativi*) and can be instituted by the National Assembly itself or, following a request from the National Council, one third of the deputies or forty thousand voters. The voters have the opportunity to confirm or reject a law/act adopted by the National Assembly before it is promulgated by the **President of the Republic** (*Predsednik republike*).
The President of the Republic must promulgate an adopted law/act within eight days of its adoption. Pursuant to Article 154 of the Constitution, all norms must be published before they can enter into force. Legal norms adopted by state institutions are published in the Official Gazette of the Republic of Slovenia (*Uradni list Republike Slovenije*; UL RS), whereas ordinances and other local regulations are published in local gazettes.
Amendments to the Constitution are adopted through a special procedure laid down by the Constitution. A proposal to amend the Constitution may be made by 20 deputies of the National Assembly, the Government or 30,000 voters. Such a proposal is decided upon by the National Assembly by a two-thirds majority vote of deputies present, but an amendment may be adopted only if approved by a two-thirds majority vote of all deputies. Article 87 of the Constitution states that the rights and duties of citizens and other persons may be determined by the National Assembly of the Republic of Slovenia only by law.
EU regulations and decisions issued by the EU institutions are directly applicable in the Republic of Slovenia. Their validity does not require ratification and publication in the UL RS.
International treaties to which the Republic of Slovenia is a signatory enter into force once the National Assembly has ratified them through a specific procedure. International treaties are ratified by the adoption of a law tabled by the government. A law on the ratification of an international treaty is adopted if passed by a simple majority of the deputies present, except where stipulated otherwise by the Constitution or law.

Legal databases

Legal Information System (*Pravno-informacijski sistem* – PIS)

The Legal Information System – **Register of regulations of the Republic of Slovenia** (*Register predpisov Republike Slovenije*) is linked to the collection of regulations of other state bodies and UL RS.

Legislation of the National Assembly (*Zakonodaja državnega zbora*)

The Legislation of the National Assembly database contains texts of all laws/acts and other acts under discussion by the National Assembly. These include:
Consolidated Texts of laws/acts (*prečiščena besedila zakonov*) – officially consolidated texts of laws/acts adopted after 29 November 2002 and published in the UL RS, and unofficially consolidated texts as of 17 June 2007;
Adopted laws/acts (*sprejeti zakoni*) – laws/acts adopted by the National Assembly and published in the UL RS since independence on 25 June 1991;
Adopted Acts (*sprejeti akti*) – acts adopted by the National Assembly and published in the UL RS since 28 November 1996;
Draft laws/acts (*predlogi zakonov*) – draft laws/acts submitted for discussion in the current term of office of the National Assembly (the database also contains adopted draft laws/acts that have not yet been published in the UL RS);
Readings of laws/acts (*obravnave zakonov*) (end of procedure) – archive of all readings of a law/act submitted for discussion in the National Assembly after 28 November 1996;
Draft Acts (*predlogi aktov*) – draft acts submitted for discussion in the current term of office of the National Assembly (the database also contains adopted draft acts that have not yet been published in the UL RS);
Readings of Acts (*obravnave aktov*) (end of procedure) – archive of all readings of an Act submitted for discussion in the National Assembly after 28 November 1996;
Draft Ordinances (*predlogi odlokov*) – draft ordinances submitted for discussion in the current term of office of the National Assembly (the database also contains adopted draft ordinances that have not yet been published in the UL RS);
Readings of Ordinances (*obravnave odlokov*) (end of procedure) – archive of all readings of an Ordinance submitted for discussion in the National Assembly after 28 November 1996;

Official Gazette of the Republic of Slovenia (*Uradni list Republike Slovenije*; UL RS)

All national regulations are officially published in the Official Gazette of the Republic of Slovenia. All documents are published online.

Related links

Legislation of the National Assembly
Legal Information System
Official Gazette of the Republic of Slovenia (UL RS)

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National legislation - Slovakia

This page provides you with information about the legal system in Slovakia.

Information on the legal order in Slovakia can be found on the page European Judicial Network: civil justice legal order.

Sources of law

Types of legal instruments – description

The term ‘sources of law’ is used in three senses:
sources of law in the material sense – material sources of law

sources of law in the epistemological sense – sources of knowledge of law
sources of law in the formal sense – formal sources of law
On the basis of how legal norms emerged and the binding form in which they are expressed, the following types of sources of law are traditionally distinguished:
legal custom,
precedent (judge-made law),
statutes,
legislative treaties,
general legal principles,
common sense,
contemporary books, legal literature and expert opinions,
international treaties, where duly incorporated into the legal order of the Slovak Republic.

Hierarchy of legal norms

One of the basic principles of the Slovak legal order is the hierarchy of legal norms. Comprehending it correctly both in legislative practice and implementation is vital in terms of legality. The hierarchy of norms is not, however, simply a question of straightforward logical precedence or subordination. Hierarchy relates to the entire issue of **legitimate authority** and also includes the categorical imperative that a piece of legislation may only be made by a body authorised to do so by law – within the limits of the law and its own legislative powers.
Legislation is categorised by what is known as 'legal force'. **Legal force** refers to the properties of legislation, one piece of legislation being subordinate to another (i.e. one with greater legal force), or where one piece of legislation is derived from another having greater legal force. In a situation involving pieces of legislation with different legal force, the weaker provision may not contradict the stronger one, whereas the stronger provision may override the weaker one.
Legislation may be hierarchically arranged as follows according to the level of legal force:

Primary legislation (acts)

constitutional acts (always primary),
acts (primary or derived from constitutional acts).

Secondary legislation (subordinate legislation)

government regulations – always secondary,
legislation of central government bodies – always secondary,
legislation of bodies of self-governing units (authorities) – primary or secondary,
legislation issued in exceptional circumstances by authorities other than government bodies – always secondary.
In the system of legal provisions, where a given act has precedence this basically means that all the other legal provisions must flow from that act, be compatible with it and not contradict it. This means that, in practice, in a situation where a legal provision lower down the hierarchy contradicts a higher-ranking provision, it is the higher-ranking one that must be acted on.

Institutional framework

Institutions responsible for the adoption of legislation

The bodies and authorities listed below have the power to adopt legislation (law-making bodies):
the National Council of the Slovak Republic – the Constitution, constitutional acts, acts, international treaties with precedence over acts, international treaties with the force of an act,
the Government of the Slovak Republic – government regulations,
ministries and other central government bodies – implementing decisions, implementing decrees and measures,
municipal and city assemblies – regulations of general application,
municipal and city authorities, and local government bodies – regulations of general application.

The legislative process

Stages of the legislative process:
presenting a bill – legislative initiative,
debate on the bill,
voting (decision on the bill),
signing of the adopted bill,
promulgation (publication) of the piece of legislation.

The decision-making process

The legislative process

Presenting a bill – legislative initiative

Under Article 87(1) of Act No 460/1992 (the Constitution of the Slovak Republic), bills may be presented by the following:
committees of the National Council of the Slovak Republic,
members of the National Council of the Slovak Republic,
the Government of the Slovak Republic.
Bills are submitted arranged in sections, together with a preamble.

Debating the bill

In accordance with the rules of procedure of the National Council of the Slovak Republic (Act No 350/1996), bills go through three readings:
The first reading involves a general debate on the substance or what is known as **the 'philosophy' of the draft act**. At this reading, no amendments or additions may be proposed.
On the second reading, the bill is discussed by the National Council committee(s) to which it has been assigned. Every bill must be reviewed by the Constitutional Committee, in particular to ensure its **compatibility with the Slovak Constitution**, constitutional acts, international treaties binding on the Slovak Republic, acts and EU law. Following this, **amendments and additions may be proposed** and are voted on once the committee discussions are completed. This is why the various positions must be consolidated before the bill is debated in the National Council of the Slovak Republic. The bill is sent to the National Council of the Slovak Republic once **the Coordination Committee has approved the committees' joint report by a special resolution**. This report forms the basis for the Slovak National Council's debate and vote on the bill on the second reading.

The third reading is restricted to those provisions of the bill for which amendments or additions were approved on the second reading. On third reading, the only changes that members of parliament can put forward are corrections of errors in legislative drafting, and grammar and spelling mistakes. Amendments and additions intended to eliminate any other errors must be put forward by at least thirty members of the National Council of the Slovak Republic. Once these have been debated, the bill is voted on as a whole.

Voting (decision on the bill)

For a law to be passed, **an absolute majority of members present must vote in favour of it**.

The Constitution may be amended and individual articles repealed only if passed by a qualified majority, which means three-fifths of all members of the National Council of the Slovak Republic (3/5 of 150).

The National Council of the Slovak Republic is quorate if at least half its members are present.

Signing the adopted bill

The adopted bill is signed by:

the President of the Slovak Republic,

the Speaker of the National Council of the Slovak Republic,

the Prime Minister of the Slovak Republic.

This step in the procedure involves checking the content, procedural correctness and final form of the adopted bill. By signing, these highest-ranking constitutional officials endorse the wording of the act.

The President has the right to exercise a 'suspensive veto' and refuse to sign an adopted act on the grounds of defects in its content. He or she must then return the adopted act, together with his or her comments, to the National Council of the Slovak Republic to be debated again.

The returned act then goes through the second and third reading stages. At this point, the National Council of the Slovak Republic may – but does not have to – take the President's comments into account. The National Council of the Slovak Republic may overturn the 'suspensive veto' by voting again, in which case the act must be promulgated, even without the President's signature.

Promulgation (publication) of the piece of legislation

Promulgation is the final stage in the legislative process. Legislation applying to the country as a whole is formally published in the Collection of Legislative Acts (Zbierka zákonov) of the Slovak Republic; this publication falls within the remit of the Slovak Ministry of Justice. The Collection of Legislative Acts is the state publication instrument of the Slovak Republic. The Collection of Legislative Acts is issued in electronic form and paper form. The electronic version and the paper version of the Collection of Legislative Acts have the same legal effects and identical content. The electronic version of the Collection of Legislative Acts is available free-of-charge through the Slov-Lex portal.

Entry into force/effect

Legislation enters into force on the date of its promulgation in the Collection of Legislative Acts.

Legislation enters into effect on the 15th day after promulgation in the Collection of Legislative Acts unless a later date of entry into effect is stipulated therein.

Other acts become binding on the date of their promulgation in the Collection of Legislative Acts.

Means of settling conflicts between the different sources of law

A normative instrument of lower legal force may not contradict a normative instrument of greater legal force.

A normative instrument may only be amended or repealed by a normative instrument of the same or greater legal force.

In practice, the rule for resolving incompatibility between legislation having the same legal force is that a more recent piece of legislation repeals or amends an older piece of legislation, or that a specific norm repeals or amends a general norm.

The Constitutional Court of the Slovak Republic reviews and rules on whether:

acts conform to the Constitution;

government regulations and generally binding legal provisions of ministries and other central government bodies conform to the Constitution, constitutional laws, and laws;

generally binding regulations issued by bodies of self-governing units conform to the Constitution and laws;

generally binding legal provisions issued by local bodies of central administration conform to the Constitution, laws and other generally binding legal provisions;

generally binding legal provisions conform to international treaties promulgated in the manner laid down for promulgating acts.

Where the Constitutional Court rules that there is incompatibility between legal provisions, such provisions – or parts or rules thereof – cease to be effective.

Where the bodies that issued the provisions fail to bring them into line with the relevant higher-ranking instruments within the statutory time limit following the issue of the ruling, the provisions – or parts or rules thereof – cease to be in force.

Legal databases

The Slov-Lex database of the Ministry of Justice of the Slovak Republic

The Ministry of Justice's "Electronic Collection of Legislative Acts (Slov-Lex)" portal is based on two interconnected information systems:

eZbierka (eCollection) – an information system providing binding consolidated electronic texts of legislation and other standards to those addressed by the law

eLegislativa (eLegislation) – a process management information system for all phases of the legislative process, equipped with advanced editing tools for legislators

Benefits for target groups:

The fundamental legal principle that all people are familiar with the law as valid and in force and are aware of their rights and obligations is increasingly difficult to apply in practice due to the increasing volume and complexity of legislation. The Slov-Lex project will help to improve implementation of this principle by ensuring effective access for all to the legislation in force:

citizens – the eZbierka section of the project in particular will bring benefits in the form of formally and substantively improved access to the legislation in force, free of charge, and increased awareness of new legislation

legal practitioners – will gain continuous access to law in force and the possibility of being notified of new legislation in the Slovak Republic or the European Union, both in general and specifically about legislation regulating the areas in which they specialise

entrepreneurs – will also obtain continuous access free of charge to the legislation in force and the possibility of being made aware of new Slovak or European Union legislation, both in general and specifically about legislation regulating the areas in which they operate; the better regulatory environment will create more favourable conditions for business and reduce the administrative burden of doing business

local and regional authorities – will obtain continuous access free of charge to sources of the legislation in force, while at the same time their administrative burden (the administratively demanding and costly obligation to provide access on working days to the Collection of Legislative Acts, linked to a subscription to and the archiving of a paper copy of the Collection) will be reduced, replacing the burdensome obligation of providing assisted access to the Collection of Legislative Acts on working days

public administrations – the project will on the one hand provide continuous access free of charge to sources of the legislation in force and, on the other, reduce the administrative burden and thus the financial cost of the legislative process, and the possibility of improving the performance of tasks in the areas of lawmaking and implementation of European Union legislation

judicial authorities – will obtain continuous and rapid access to the legislation in force on any chosen day in history, and the possibility of references from judicial decisions to the legislation in force at a given time, which will at least partially eliminate routine activities and increase the efficiency of the work of judges and court officials

legislative authorities – will be able to use an efficient tool to draft legislation and administer the legislative process, which will relieve them of some burdensome red tape and allow them to focus more on the content of pending proposals.

Related links

Slov-Lex legal and information portal

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National legislation - Finland

This page provides you with information on the legal system in Finland.

Sources of law

The term ‘sources of law’ means the sources where legal rules are to be found. In Finland, some sources of law are national and others are international. Some sources are written, some unwritten. A summary of all sources of law is set out below.

Types of legal instruments – description

National sources of law

The most important national sources of law are written laws. The term ‘laws’ should in this context be interpreted broadly as meaning the Constitution, ordinary acts (also known as Acts of Parliament), decrees, whether issued by the President of the Republic, the Council of Ministers or ministries, and legal rules issued by lower-ranking authorities. Legal rules issued by lower-ranking authorities and decrees may be issued only under the authority of the Constitution or an ordinary Act, which normally specifies the state body or authority empowered to issue such a rule.

In circumstances where there is no written law, Chapter 1, Section 11 of the Code of Procedure provides that custom may be the source of law. For custom to be binding, it must be equitable. The rule of custom dates back a long way and its current notion is not very specific. ‘Custom’ today chiefly means certain established practices that occur, for example, in commercial activities. Because regulations provided for in written law are now fairly comprehensive, custom is nowadays only relatively rarely of importance as a source of law. In some areas, however, such as law of contract, customary law does have a fairly strong position even now.

Preparatory legislative work and court decisions are also sources of law. Preparatory legislative work provides information on the legislator’s intention and, for that reason; such documents are used in the interpretation of legislation. Of the various court decisions, the most important as sources of law are those of the highest courts, namely the Supreme Court and the Supreme Administrative Court. The decisions of these two courts are called precedents. Although precedents are not legally binding, they have great importance in practice. The decisions of other courts may also be important as sources of law. Indeed, in circumstances in which the decision of a lower court is final, the practice of the lower courts may be of great practical importance.

Jurisprudence, general legal principles and factual arguments are also national sources of law. The specific task of jurisprudence is to research the content of the legal system – the interpretation and classification of legal rules – and for that reason it, too, is significant as a source of law. General legal principles and practical arguments can also have significance as sources of law. As will be shown below, the position of these sources in the hierarchy of sources of law is weaker than that of the other sources referred to above.

International sources of law and European Union law

International agreements and other international obligations to which Finland is committed are binding sources of law in Finland. The practice of the international bodies that apply such agreements also has significance as a source of law. One example of a source of law in this category is the Convention of the Council of Europe on Human Rights; thus the practice of the European Court of Human Rights is relevant to the interpretation of the Convention.

As a member of the European Union, Finland is also bound by its laws, regulations and directives. These are among the most important legislation of the European Union. Regulations are directly applicable to all member states and member states must implement its directives. Preliminary work in implementing legislation may, therefore, also draw some significance from how EU law is interpreted, although that significance is clearly far less than is the case for preparatory work for national legislation.

Other EU regulatory instruments are binding on Finland to the same extent as they are binding upon other member states. The rulings of the Court of Justice of the European Communities are also of significance as a source of law, because they are part of the body of EU law.

Hierarchy of norms

Finnish sources of law are customarily divided into strongly binding, weakly binding and admissible sources. Acts and custom are strongly binding sources. They therefore occupy the highest position in the hierarchy. It is the official duty of the law enforcement authorities to apply them; to set them aside is deemed misconduct in office. The hierarchy of national legislation is as follows:

Constitution

Ordinary Acts (Acts of Parliament)

Decrees issued by the President of the Republic, the Council of Ministers and ministries

Legal rules issued by lower-ranking authorities.

Weakly binding sources of law, namely the ones that rank lower in the hierarchy, consist of preparatory legislative work and court decisions. Disregard of these sources does not result in a sanction for misconduct in office against the enforcement authority, but the likelihood of a decision being challenged in a higher court increases. The admissible sources of law categories include jurisprudence, general legal principles and factual arguments. Admissible sources of law are not binding, but they may be used to bolster an argument and thereby strengthen the grounds on which a decision is based.

International agreements have the same hierarchical ranking as the instrument used to implement them in Finland. Thus, if an international agreement is implemented by an Act, the provisions of that agreement have the hierarchical ranking of the provisions of the Act. If, however, an international obligation is

implemented pursuant to a decree, its provisions have the hierarchical rank of the provisions of the decree. Implementing provisions are therefore analogous to national provisions of the same hierarchical rank.

Institutional framework

Institutions responsible for the adoption of legal rules

Under the Finnish Constitution, legislative power in Finland is vested in Parliament. Parliament enacts all ordinary Acts and also determines amendments to the Constitution. Acts or basic laws enacted by Parliament may vest certain other bodies with the authority to issue legal rules on given matters. On the basis of such authorisation, the President of the Republic, the government and a ministry may issue decrees. Where there is no provision specifying who is to issue a decree, it is issued by the government. A lower-ranking authority may also, in certain circumstances, be authorised by an Act to lay down legal rules on given matters. This occurs where there are specific grounds relating to the subject matter of the rules concerned, and where the material significance of those rules does not require that they be laid down by an Act or a decree. The scope of such authorisation must also be clearly defined. No bodies other than those referred to above have authority to issue generally binding legal rules.

Decision - making process

Enactment and entry into force of legal rules

In order for legislation to be enacted, it must be presented to Parliament for consideration as a government proposal or as an initiative by a Member of Parliament. Government proposals are prepared in ministries and are subsequently discussed at the government plenary session. After that, the decision on whether to bring the government proposal before Parliament is made at the presidential session.

In Parliament, a government proposal is first the subject of a preliminary debate, after which it is assigned to a parliamentary committee for consideration. The committee hears experts and drafts a report on the government proposal. The matter is then referred to a plenary session of Parliament, where the report of the parliamentary committee acts as a basis for discussion. The decision to pass a Bill is taken at a plenary session of Parliament in two readings. Parliament may pass a bill without amending it, amend it or reject it. The final decision on the fate of a Bill therefore lies with Parliament. Ordinary Bills are passed in Parliament by means of a simple majority, whereas an amendment to the Constitution requires a stipulated majority.

Once a Bill has been passed by Parliament, it is forwarded to the President of the Republic for approval. An Act enters into force at the time specified in the Bill, but not before it has been published in the legal gazette, 'Statutes of Finland'.

Decrees issued by the President of the Republic, the government or a ministry are prepared in the ministry that deals with the matter. Where presidential decrees are concerned, the President of the Republic makes a decision to issue a decree acting on proposals presented by the government. The issuing of government decrees is determined at government plenary sessions, and the issuing of ministerial decrees is determined by the ministry concerned. All decrees are published in the Statutes of Finland. A decree enters into force at the time specified in the decree itself, but does not; in any event, enter into force before the decree has been published in the Statutes of Finland.

Legal rules laid down by lower-ranking authorities – which are, in practice, usually called either decisions or rules and regulations – are prepared by the authority concerned, which also decides on their adoption. Regulations adopted by lower-ranking authorities enter into force at the time provided for and are published in the compendium of rules and regulations of the authority concerned.

Legal databases

Finlex

Finlex is a legal databank with over thirty databases. Legislative information in Finlex is organised into six databases. It includes, among other things:

The database of translations of Finnish acts and decrees, including translations of Finnish Acts of Parliament (mostly in English)

The consolidated texts of acts and decrees (in Finnish and in Swedish)

A reference database that includes a list of changes made to any act or decree

Sámi language acts and decrees.

The translations of Finnish Acts and decrees (mostly in English) are in one database. The original texts of Acts and decrees are in separate databases. The most recent Acts are found in the electronic statutes of Finland.

Case law in Finlex consists of over ten databases. These include the precedents set by the Supreme Court and cases of the Supreme Administrative Court, the courts of appeal, the administrative courts and special courts.

Other Finlex databases include international treaties, secondary legislation and government bills.

Access to the database is **free of charge**.

Other databases

In addition to Finlex, databases on legislation, case law, government bills and legal literature are also available in Finland. Edilex and Suomen laki provide comprehensive on-line legal information services. Both Edilex and Suomen laki contain databases of national legislation, case law and other material. Subscription is required for most of the services. WSOYPro is the third commercial legal information service in Finland. Most materials are restricted to subscribers.

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Jekk jogħġbok innota li l-verżjoni bil-lingwa oriġinali ta' din il-paġna sv ġiet emendata reċentement. Il-verżjoni tal-lingwa li qed tara bħalissa attwalment qed tiġi ppreparata mit-tradutturi tagħna.

National legislation - Sweden

This page provides you with information on the legal system in Sweden.

Sources of law

There are four main sources of law in Sweden: legislation, preparatory legislative material, case law and academic literature.

Legislation is the primary source. It is printed and promulgated in the Swedish Code of Statutes. Legislation is divided into acts, ordinances and regulations. Acts are adopted by the Riksdag (Swedish Parliament), ordinances are adopted by the Government and regulations are issued by the authorities.

The Riksdag is the only public body with the authority to adopt new laws or to amend existing legislation. Legislation that has been adopted can only be repealed or amended by a new decision from the Riksdag.

Decisions from the courts, **case law**, play an important part in the application of the law. This particularly applies to decisions from the highest instances, the Supreme Court and the Supreme Administrative Court.

Preparatory work on proposed laws, i.e. the texts that are created in connection with the legislative process, are also used in the application of the law.

Decision-making process

New acts or amendments to existing acts are usually proposed by the Government. Before the Government submits a proposal to the Riksdag for a new piece of legislation it generally needs to examine available alternatives carefully. A specially appointed commission of inquiry is assigned this task.

Before the Riksdag decides whether to adopt a proposed law or amendment, the proposal must be considered by members of the Riksdag in a parliamentary committee. There are fifteen committees, each with its own area of responsibility, such as transport or education.

When a committee has presented its recommendations to the Chamber – in the form of a committee report – on what decision the Riksdag should take on the Government's and members' proposals, all the members of the Riksdag debate the proposed law and a final decision is taken.

It is the Government's responsibility to implement the Riksdag's decisions and ensure that they are enforced in the way intended by the Riksdag. The Government Offices, including all ministries and some 300 public agencies, assist the Government in this task.

All laws and ordinances are published in the Swedish Code of Statutes (*Svensk Författningssamling*, SFS), which is available in printed form and on the Internet.

Legal databases

You can find legal information on public administration on Lagrummet. Links to access legal information from the Government, the Riksdag, higher courts and government agencies are available from this portal.

Access to the portal is **free of charge**.

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National legislation - England and Wales

This page provides you with information on law and legal databases relating to the legal system in the United Kingdom. There are three distinct legal jurisdictions in the United Kingdom – England and Wales, Northern Ireland, and Scotland. This information relates to the England and Wales jurisdiction.

Sources of law

The principal sources of law in the England and Wales jurisdiction of the United Kingdom are:

Primary legislation in the form of **Acts of the United Kingdom Parliament, Acts of the National Assembly for Wales** and **Measures of the National Assembly for Wales**

European Union law

Secondary (or subordinate legislation) in the form of **statutory instruments** made by the Sovereign, the United Kingdom government, the Welsh Assembly government or other authority. Some other subordinate legislation may be made as **administrative orders**.

The **common law** as developed through judicial decisions

Types of legal instruments – description

Primary legislation, or Acts of Parliament, are made by the UK Parliament in London and may apply to all or any part of the United Kingdom. The National Assembly for Wales is able to pass Acts on 20 devolved areas listed in Schedule 7 to the **Government of Wales Act 2006.** Other primary legislation may be made by the Sovereign under the prerogative in various forms, such as Orders in Council, Proclamations, Royal Warrants, Royal Instructions, Regulations and Letters Patent.

Secondary legislation is made under powers conferred by or under statute of Her Majesty in Council or a Minister, department (Ministry), Welsh Ministers or other body or person. This is also called delegated or secondary legislation, and the statute conferring the power is referred to as the enabling or empowering or 'parent' Act. Secondary legislation may have various titles: such as, Orders in Council, Regulations or Rules, all of which may be referred to collectively as 'Statutory Instruments' or 'Statutory Rules'.

In July 1999, certain law-making powers were transferred from the UK Parliament to the National Assembly for Wales in Cardiff. The Assembly was given the power to make statutory instruments affecting Wales, but primary legislation on Welsh affairs continued to be made by the UK Parliament. Following the **Government of Wales Act 2006**, the Assembly was given the power to pass Measures (primary legislation) in respect of Welsh affairs for which the UK Parliament has approved legislative competence orders covering subjects set out in the Act. Measures must, however, must be submitted for approval by the Sovereign in Council before they can become law. The Assembly has responsibility for matters that include economic development, education, the environment, health, housing, tourism and transport; but does not have responsibility for civil or criminal law. Welsh legislation made by the Assembly and the Welsh Ministers (the Welsh Assembly government) is made in both the English and Welsh languages.

The power to make **international treaties** on behalf of the UK is vested in the Crown – i.e. the Sovereign under the Royal Prerogative, acting on the advice of the UK Government. The UK Parliament currently has no formal role in making treaties, but where a treaty requires a change in UK legislation or a grant of public money, Parliament will vote on that in the normal way. All EU treaties require legislation for their implementation in the UK and are therefore subject to parliamentary scrutiny. When the Constitutional Reform and Governance Act 2010 comes into force a treaty may not be ratified unless (a) a Minister of a Crown has in the first instance laid before Parliament a copy of the treaty, (b) the treaty has been published and (c) a period of 21 sitting days has expired without either House of Parliament having resolved that the treaty should not be ratified.

Hierarchy of norms

Where there are conflicts between the different sources of law, the principal forum for resolving them is the courts. Disputes about the interpretation of legislation may also be resolved by the courts. However, since there is no 'written constitution' in the UK, it is not possible to challenge an Act of Parliament in court on the basis that it is 'unconstitutional'. The **constitutional doctrine of 'parliamentary sovereignty'** holds that the UK Parliament is the supreme legislative authority – in the sense that it may make and repeal any law, and that no other body may repeal or question the validity of an Act of Parliament. However, the doctrine of parliamentary sovereignty is qualified by the UK's membership of the European Union. By virtue of the European Communities Act 1972, European Union law forms part of the law of England and Wales (and Scotland and Northern Ireland). Domestic legislation must be interpreted so as to comply with EU law wherever possible.

The Human Rights Act 1998, which incorporated the European Convention on Human Rights into UK law, gives the courts another power with which to call Acts of Parliament into question. As far as possible, domestic legislation must be interpreted to be compatible with the rights in the Convention.

Decisions of the courts, and particularly of the appeal courts, play an important role in the development of the law. Not only do they provide authoritative rulings on the interpretation of legislation, but they also form the basis of the common law, which is derived from court decisions in previous cases (or case law).

As concerns which courts' decisions bind which other courts, the general principle is that a court will be bound by earlier decisions made by a higher court.

In relation to matters of European Union law, the **European Court of Justice** is the highest authority. The Law Lords within the House of Lords have acted as the Supreme Court of the United Kingdom but were replaced by the new Supreme Court, which came into being on 1st October 2009. The existing Law Lords became the first Justices of the Supreme Court, and the Senior Law Lord became the President.

Institutional framework

Institutions responsible for the adoption of legal rules and the decision-making process

Primary legislation is made by the **UK Parliament** in London. Before a **proposal for legislation** (known as a Bill) can become an Act of Parliament, it must be approved by both Houses of Parliament: the House of Commons and the House of Lords. The following stages take place in both Houses:

First reading (formal introduction of the Bill without debate)

Second reading (general debate)

Committee stage (detailed examination, debate and amendments. In the House of Commons, this stage generally takes place in a public bill committee)

Report stage (opportunity for further amendments)

Third reading (final chance for debate; amendments are possible in the Lords).

Once a Bill has passed through both Houses, it is returned to the first House (where it started) for the second House's amendments to be considered.

Both Houses must agree on the final text. There may be several rounds of exchanges between the two Houses until agreement is reached on every word of the Bill. Once this happens, the Bill can be submitted for Royal Assent.

Primary legislation is also made by **The National Assembly for Wales.** Before a Bill can become and Act of the Assembly, it has to be considered and passed by the Assembly and given Royal Assent by the monarch. An Act of Assembly is a law, enforced in all areas of Wales, where it is applicable.

There is, generally, a 4-stage process for the consideration of a Government Bill in the Assembly as follows:

Stage 1: Consideration of the general principle of a Bill or Measure by a committee (or committees), and agreement of these general principles by the Assembly.

Stage 2: Detailed consideration, by a committee, of a Bill or Measure and any amendments proposed by Assembly Members.

Stage 3: Detailed consideration, by the Assembly, of the Bill or Measure and any amendments proposed by Assembly Members. The Presiding Officer decides which amendments will be considered by the Assembly.

Stage 4: A vote by the Assembly to pass the final text of the Bill or Measure.

When a Bill has passed through all its parliamentary stages in the UK Parliament or the Welsh Assembly, it is sent to the Sovereign for **Royal Assent**, after which it becomes an **Act**. Measures of the National Assembly for Wales must be submitted for approval by the Queen in Council.

Primary legislation can generally be amended or repealed only by new primary legislation. There are, however, exceptions under which certain amendments and repeals may be made by statutory instrument. This includes where they are implementing EU obligations or a piece of legislative reform that reduces or eliminates regulatory burdens. Such orders must, however, be approved by affirmative resolution of both Houses of Parliament before they are made.

Primary legislation comes into force in accordance with the **commencement provisions** included in the Act or Measure. The Act or Measure may specify a particular date for coming into force. This might be immediately on Royal Assent, on a specified date (generally at least two months after Royal Assent) or a date to be specified by a Minister or department by making a commencement order (statutory Instrument). Different dates may be specified for different provisions of an Act.

The coming into force date of any piece of secondary legislation will generally be specified in the instrument itself. Exceptionally, the commencement date may be made by publication of a notice in the official gazette (the London Gazette).

Legal databases

Legislation.gov.uk, managed by The National Archives, is the official home of UK legislation.

Legislation.gov.uk provides access to UK legislation covering all jurisdictions (England, Scotland, Wales and Northern Ireland). The site contains all legislation from 1988 to present day, most pre-1988 primary legislation in both original and revised versions, and a large selection of secondary legislation from 1948 onwards where this legislation is still in force.

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National legislation - Northern Ireland

This page provides you with information about law and legal databases in the United Kingdom, with particular reference to the Northern Ireland jurisdiction.

Sources of law

The principal sources of law in the Northern Ireland jurisdiction of the United Kingdom are:

Primary legislation in the form of Acts of the United Kingdom Parliament and Acts of the Northern Ireland Assembly. Some primary legislation relating to Northern Ireland is also made by the Sovereign in Council as Orders in Council (statutory instruments)

European Union law

Secondary (or subordinate) legislation in the form of statutory instruments and statutory rules of Northern Ireland. Some other subordinate legislation may be made as administrative orders.

The **common law** as developed through judicial decisions.

Types of legal instruments – description

Acts of Parliament, are made by the UK Parliament in London and may apply to all or any part of the United Kingdom. The UK Parliament has also approved the devolution of legislative powers to the devolved parliaments and assemblies, which can pass primary legislation covering a limited range of subjects and which apply within their own jurisdictions. Other primary legislation may be made by the Sovereign under the prerogative in various forms, such as Orders in Council, proclamations, royal warrants, royal instructions, regulations and letters patent.

Secondary legislation is made under powers conferred by or under statute of Her Majesty in Council or a Minister, department (Ministry), the Northern Ireland Executive, or other body or person. This is also called **delegated or subordinate legislation**, and the statute conferring the power is referred to as the enabling or empowering or 'parent' Act. Secondary legislation may have various titles, such as Orders in Council, regulations or rules, all of which may be referred to collectively as 'statutory Instruments' or 'statutory rules'.

In Northern Ireland, legislation includes Acts or statutes that may be Acts of the UK Parliament, the Northern Ireland Parliament (1921-1972) or the Northern Ireland Assembly in Belfast. At various times, devolved governments in Northern Ireland were suspended and much legislation was contained in 'Orders in Council', which technically are secondary legislation but are used as primary legislation. Legislation in Northern Ireland also includes statutory rules – secondary or subordinate legislation – made under the authority of an Act of the UK Parliament, Order in Council or Act of the Northern Ireland Assembly.

The power to make **international treaties** on behalf of the UK is vested in the Crown, i.e. the Sovereign under the Royal Prerogative, acting on the advice of the UK Government. The UK Parliament has no formal role in making treaties, but where a treaty requires a change in UK legislation or a grant of public money, Parliament will vote on it in the normal way. All EU treaties require legislation for their implementation in the UK and are therefore subject to parliamentary scrutiny. Sections 20-25 of the Constitutional Reform and Governance Act 2010 came into force on 11 November 2010 and requires a treaty may not be ratified unless (a) a Minister of a Crown has in the first instance laid before Parliament a copy of the treaty, (b) the treaty has been published and (c) a period of 21 sitting days has expired without either House of Parliament having resolved that the treaty should not be ratified.

Hierarchy of norms

Where there are conflicts between the different sources of law, the principal forum for resolving them is the courts. The courts may thus resolve disputes about the interpretation of legislation. However, since there is no 'written constitution' in the UK, it is not possible to challenge an Act of Parliament in court on the basis that it is 'unconstitutional'. **The constitutional doctrine of 'parliamentary sovereignty'** holds that the UK Parliament is the supreme legislative authority, in the sense that it may make and repeal any law, and that no other body may repeal or question the validity of an Act of Parliament.

However, the doctrine of parliamentary sovereignty is qualified by the UK's membership of the European Union. By virtue of the European Communities Act 1972, European Union law forms part of the law of Northern Ireland. Domestic legislation must be interpreted so as to comply with EU law wherever possible.

The Human Rights Act 1998, which incorporated the European Convention on Human Rights into UK law, gives the courts another power to call Acts of Parliament into question. As far as possible, domestic legislation must be interpreted so as to be compatible with Convention rights.

Decisions of the courts, and particularly of the appeal courts, play an important role in the development of the law. Not only do they provide authoritative rulings on the interpretation of legislation, but they also form **the basis of the common law**, which is derived from court decisions in previous cases (or case law). As a general principle, courts are bound by earlier decisions made by higher courts. In relation to matters of European Union Law, the European Court of Justice is the highest authority. The Supreme Court is the final court of appeal for all civil and criminal cases from Northern Ireland.

Institutional framework

Institutions responsible for the adoption of legal rules and the decision-making process

Before **a proposal for primary legislation** (known as a Bill) can become an Act of the UK Parliament, it must be approved by both Houses of Parliament in London: the House of Commons and the House of Lords. The following stages take place in both Houses:

First reading (formal introduction of the Bill without debate)

Second reading (general debate)

Committee stage (detailed examination, debate and amendments. In the House of Commons this stage generally takes place in a Public Bill Committee.)

Report stage (opportunity for further amendments)

Third reading (final chance for debate; amendments are possible in the Lords).

When a Bill has passed through both Houses it is returned to the first House (where it started) for the second House's amendments to be considered.

Both Houses must agree on the final text. There may be several rounds of exchanges between the two Houses until agreement is reached on every word of the Bill. Once this happens the Bill can be submitted for Royal Assent.

In the **Northern Ireland Assembly**, a similar process (involving introduction of a Bill, consideration, debate and voting) occurs, although there is only a single Chamber within the devolved Assembly. Ministers, committees and individual members can initiate a Bill and present it to the Speaker of the Assembly for consideration by the Assembly. If the Speaker is content that the proposals are within the Assembly's competence, the Bill is then introduced and debated in the Chamber. It is then referred to the appropriate statutory committee for scrutiny. The committee reports back to the Assembly, allowing members to consider the detail of the Bill and to propose amendments. It is then considered further by the Assembly and a final vote is taken.

When a Bill has passed through all its parliamentary stages in the UK or the Northern Ireland Assembly, it is sent to the Sovereign for Royal Assent, after which it becomes **an Act**.

Primary legislation can generally be **amended or repealed** only by new primary legislation. There are, however, exceptions under which certain amendments and repeals may be made by statutory instrument – where they involve implementing EU obligations or a piece of legislative reform that reduces or eliminates regulatory burdens.

Primary legislation comes into force in accordance with the **commencement provisions** set out in the Act. The Act may specify a particular date for coming into force. This might be immediately on Royal Assent, on a specified date (generally at least two months after Royal Assent) or on a date to be specified by a Minister or department in a commencement order (statutory instrument). Different dates may be specified for different provisions within one Act.

The coming into force date for any piece of secondary legislation will generally be specified in the instrument itself. Exceptionally, the commencement date may be made by publication of a notice in the official gazettes (the London or Belfast Gazette).

Legal databases

A number of legal databases are available.

The UK Legislation website provides the full text of **all primary legislation** as enacted by the UK Parliament, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales, together with all secondary legislation applying to the UK as a whole or to parts of the UK. Access to the information is free of charge.

Revised primary legislation covering all parts of the UK from 1235 to date can also be found in the UK Legislation website.

Related Links

UK legislation website

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National legislation - Scotland

This page provides you with information on law and legal databases in the United Kingdom, with particular reference to the Scotland jurisdiction.

Sources of law

The principal sources of law in the Scotland jurisdiction of the United Kingdom are:

Primary Legislation in the form of **Acts of the United Kingdom Parliament** and **Acts of the Scottish Parliament**

European Union law

Secondary (or subordinate legislation) in the form of **Statutory Instruments** and **Scottish Statutory Instruments**. Some other subordinate legislation may be made as **Administrative Orders**

The **common law** as developed through judicial decisions.

Types of legal instruments – description

Primary legislation, or **Acts of Parliament**, are made by the UK Parliament in London and may apply to all or any part of the United Kingdom. The UK Parliament has also approved the **devolution of legislative powers** to the devolved Parliaments and Assemblies, under which they can pass primary legislation covering a limited range of subjects, which will apply within their own jurisdictions. Other legislation may be made by the Sovereign under the prerogative in various forms, such as Orders in Council, proclamations, royal warrants, royal instructions, regulations and letters patent.

Secondary legislation is made under powers conferred by or under statute on Her Majesty in Council, Ministers, Departments (Ministries), the Scottish Ministers, or other body or person. This is also called **delegated or secondary legislation**, and the statute conferring the power is referred to as the enabling or empowering or 'parent' Act. Secondary legislation may have various titles (such as Orders in Council, Regulations or Rules), all of which may be referred to collectively as 'Statutory Instruments' or 'Scottish Statutory Instruments'.

The **Scotland Act 1998** created and devolved power to the Scottish Parliament in Edinburgh. It restored to Scotland (following a referendum) the separate Parliament that had been lost at the time of the Union with England and Wales in 1707. However, as Scotland continues to be part of the UK, the UK Parliament is still able to legislate in certain areas. Primary legislation may be made by the Scottish Parliament in devolved subject areas (i.e. principally under the Scotland Acts of 1997, 2012 and 2016). These include: health; education; local government; social work; housing; planning; tourism and economic development; some aspects of transport; justice, including most aspects of private and criminal law; police and fire services; many aspects of the environment; agriculture and fisheries; sport and the arts and implementation of international obligations in devolved areas. The Scotland Acts of 2012 and 2016 extended these devolved powers into areas such as: certain aspects of taxation; employment support services; aspects of social security (including benefits for disabled people and carers); law on abortion; management of the Crown Estate; consumer adovocacy and competition; energy (including licensing of onshore oil and gas and fuel poverty schemes); equalities (including quotas for gender equality on public sector boards); further aspects of transport (including policing of railways); and licensing and gaming machines. Scottish Statutory Instruments (SSIs) may also be made by the Scottish Ministers under powers delegated by Acts of the UK Parliament or Acts of the Scottish Parliament.

The power to make **international treaties** on behalf of the UK is vested in the Crown, i.e. the Sovereign under the Royal Prerogative, acting on the advice of the UK Government. The UK Parliament currently has no formal role in making treaties, but where a treaty requires a change in UK legislation or a grant of public money, Parliament will vote on that in the normal way. All EU treaties require legislation for their implementation in the UK and are therefore subject to parliamentary scrutiny. When the Constitutional Reform and Governance Act 2010 comes into force a treaty may not be ratified unless (a) a Minister of a Crown has in the first instance laid before Parliament a copy of the treaty, (b) the treaty has been published and (c) a period of 21 sitting days has expired without either House of Parliament having resolved that the treaty should not be ratified.

Hierarchy of norms

Where there are conflicts between the different sources of law, the principal forum for resolving them is the courts. Disputes about the interpretation of legislation may also be resolved by the courts. However, since there is no 'written constitution' in the UK, it is not possible to challenge an Act of Parliament in court on the basis that it is 'unconstitutional'. **The constitutional doctrine of 'parliamentary sovereignty'** holds that the UK Parliament is the supreme legislative authority, in the sense that it may make and repeal any law, and that no other body may repeal or question the validity of an Act of Parliament. Whilst therefore the UK Parliament retains authority to legislate on any issue, whether devolved or not, the UK Government has however committed to proceed in accordance with the (Sewel) convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature.

However, the doctrine of parliamentary sovereignty is qualified by the UK's membership of the European Union. By virtue of the European Communities Act 1972, **European Union Law** forms part of the law of England and Wales (and Scotland and Northern Ireland). Domestic legislation must be interpreted so as to comply with EU law wherever possible.

The Human Rights Act 1998, which incorporated the European Convention on Human Rights into UK law, gives the courts another power to call Acts of Parliament into question. As far as possible, domestic legislation must be interpreted to be compatible with Convention rights.

Decisions of the courts, and particularly of the appeal courts, play an important role in the development of the law. Not only do they provide authoritative rulings on the interpretation of legislation, but they also form the basis of the common law, which is derived from court decisions in previous cases (or case law). In general, as to which courts' decisions bind which other courts, the general principle is that a court will be bound by earlier decisions made by a higher court. In relation to matters of European Union Law, the European Court of Justice is the highest authority. The **High Court of Justiciary** is the supreme criminal court in Scotland, while the **Law Lords** within the House of Lords have acted as the Supreme Court for Civil matters in Scotland. However, they were replaced by the Supreme Court, which came into being on 1st October 2009. The Law Lords became the first Justices of the Supreme Court, and the Senior Law Lord became the President.

Institutional framework

Institutions responsible for the adoption of legal rules and the decision-making process

Primary legislation is made by the UK Parliament in London. Before a **proposal for legislation** (known as a Bill) can become an **Act of Parliament**, it must be approved by both Houses of Parliament: the House of Commons and the House of Lords. The following stages take place in both Houses:

First reading (formal introduction of the Bill without debate)

Second reading (general debate)

Committee stage (detailed examination, debate and amendments. In the House of Commons, this stage generally takes place in a Public Bill Committee.)

Report stage (opportunity for further amendments)

Third reading (final chance for debate; amendments are possible in the Lords)

When a Bill has passed through both Houses, it is returned to the first House (where it started) for the second House's amendments to be considered. Both Houses must agree on the final text. There may be several rounds of exchanges between the two Houses until agreement is reached on every word of the Bill. Once this happens, the Bill can be submitted for Royal Assent.

In the Scottish Parliament, a similar process involving introduction of a Bill, consideration, debate and voting occurs, though there is **only a single Chamber** within the devolved Parliament. There are three stages:

Stage 1: The appropriate parliamentary committee(s) takes evidence on the Bill and produces a report on the Bill's general principles. A meeting of the Parliament then considers the report and debates whether to agree to the Bill's general principles. If the Parliament agrees, the Bill goes on to Stage 2

Stage 2: The bill is considered in detail by a committee or, occasionally, by a Committee of the Whole Parliament. Changes, known as amendments to the Bill, can be made at this stage.

Stage 3: The Bill is again considered at a meeting of the Parliament. Further amendments can be made and the Parliament then debates and decides whether to pass the Bill in its final form.

When a Bill has passed through all its parliamentary stages in the UK or Scottish Parliaments, it is sent to the Sovereign for **Royal Assent**, after which it becomes an **Act**. In Scotland, there is a there is a four week period during which it may be challenged by the Law Officers if they believe it falls outside the law-making powers of the Scottish Parliament.

Primary legislation can generally be **amended or repealed** only by new primary legislation, There are, however, exceptions under which certain amendments and repeals may be made by Statutory instrument – where these are implementing EU obligations, or a piece of legislative reform that reduces or eliminates regulatory burdens or failure to comply with the European Convention on Human Rights. Such Orders, however, require to be approved by affirmative resolution of both Houses of Parliament before they can be made.

Primary legislation comes into force in accordance with **commencement provisions,** which are included in the Act. The Act may specify a particular coming into force date. This might be immediately on Royal Assent, on a specified date (generally at least two months after Royal Assent) or a date to be specified by a Minister or Department by the making of a Commencement Order (Statutory Instrument). Different dates may be specified for different provisions within the Act.

The coming into force date for any piece of secondary legislation will generally be specified in the instrument itself. Exceptionally, the commencement date may be made by publication of a notice in the official gazettes (the London or Edinburgh Gazette).

Legal databases

A number of legal databases are available.

The website of the Office of Public Sector Information (OPSI) provides the full text of **all primary legislation** as enacted by the UK Parliament, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales, together with **all secondary legislation** applying to the UK as a whole or parts of the UK. Access to the information is free of charge.

Revised primary legislation from 1235 to date covering all parts of the UK can be found in the UK Statute Law Database. Access to the database is free of charge.

Although **all Scottish legislation** is available on the OPSI website, all Scottish primary and secondary legislation enacted and made since devolution in 1999 is also available on the Office of the Queen's Printer for Scotland website. Access to the legislation is free of charge.

Legislation.gov.uk, incorporating both the OPSI and Statute Law Database websites and also replacing the legislation published on the Office of the Queen's Printer for Scotland website, is the official home of all UK Legislation

Related Links

Office of Public Sector Information (OPSI), Statute Law Database, legislation.gov.uk, Office of the Queen's Printer for Scotland

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