

Annex A. Comparative Tables

Table A A.1. Comparative Perspectives on Economic Rights, Social Rights, Cultural Rights and “New Rights”

| Economic Rights | | | |
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| | Social Welfare | Unionisation and Striking | Workers' Rights |
| Australia | Not present. | Not present. | Not present. |
| Finland | Justiciable guarantee of means of subsistence during unemployment, retirement, or disability as well as during the birth of a child or the loss of a provider. Need for contribution, past employment not made explicit. Details to be defined by law (s. 19). | Justiciable right to join/form union. Details on the exercise of the right (and free association generally) to be established in law (s. 13). Right to strike: not present. | Not explicitly guaranteed. But, the public authorities are assigned responsibility for the protection of the labour force and no one is to be dismissed without a lawful reason (s. 18). |
| Germany | Not present. | Justiciable right to unionise for every individual and occupation (art. 9(3)). Right to strike: not present. | Not present. |
| New Zealand | Not present. | Not present. | Not present. |
| Portugal | Workers have a justiciable right to material assistance when involuntarily unemployed or unable to work due to a work-related accident or illness (art. 59). The state is tasked with organizing and subsidizing a social security system to protect disabled individuals, widows and orphans, the elderly, and the unemployed. All periods of work to be included in the calculation of old age and disability pension amounts (justiciable, art.63). Maternity: leave guaranteed and law to provide mothers and fathers a period of leave from work in the interests of the child (justiciable, art. 68). | Justiciable rights to unionise (art. 55) and strike (art. 57). Right to strike subject to limitations where “essential services” are involved. Essential services includes military and police (art. 270). Extent of limitations to be defined by law. No law can limit the scope of interests that workers seek to advance via strikes, and lockouts are explicitly prohibited (art. 57). | Justiciable rights to a fair/living wage, rest and leisure time, limits on the working day, and to healthy, safe, and hygienic working conditions (art. 59). |
| Spain | The existence of a public social security system that provides adequate benefits for all citizens during times of hardship is required and particular emphasis is placed on | Justiciable right to join/form a union, but a law may limit or except its exercise by members of the armed services and lay out special conditions for civil servants (art. 28). | Justiciable right (and duty) to work for sufficient remuneration with the particulars to be regulated by law (art. 35). The state is to ensure workplace safety and hygiene, suitable |

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| | ensuring benefits for the unemployed (aspirational, Art. 41) | The right to strike is also justiciable, subject to the possible legal regulation to ensure the maintenance of essential public services (art. 28(2)). | limits on the working day, adequate rest periods, and periodic paid holidays (aspirational, art. 40(2)). |
| Switzerland | Compulsory Old-age, Survivors', and Invalidity insurance to be established by law. Minimum benefit to be sufficient to cover basic living expenses; the maximum amount not to exceed twice the minimum. Funding provided by a combination of employee/employer contributions and state subsidies (aspirational, arts.112, 112b, 112c). State required to create a mandatory occupational pension scheme funded by both employee and employer contributions, the latter of which must be at least half that of the former. This scheme intended—in conjunction with old-age, survivors, and disability insurance—to allow retired individuals to maintain their “previous lifestyle in an appropriate manner” (aspirational, art.113). State required to create an unemployment insurance scheme to be equally funded by employee and employer contributions (aspirational, art. 114). | Justiciable right of workers to join/form a union and of employers to form associations as well as a right to not join such associations (art. 28). Strikes and lockouts permissible provided they are directly related to employment relations. “Certain categories of person” may be prohibited from striking by law (justiciable, art. 28). | The state is to endeavour to ensure that everyone who is fit to work can earn a living by working under fair conditions (aspirational, art. 41). |

Social Rights

| | Education | Healthcare | Social Welfare |
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| Australia | Not present. | Not present. | Not present. |
| Finland | Justiciable right to basic education. Opportunity to access to other educational services based on ability and/or need as well as opportunity to develop oneself without being prevented by economic hardship also guaranteed. Details of all three to be provided for in law (s.16). | Justiciable right to adequate health and medical service for all. Details to be provided by law (s.19). | Justiciable guarantee to the “means necessary for a life of dignity” to those otherwise unable to obtain them (s.19). <i>Housing:</i> public authorities to “promote the right of everyone to housing and the opportunity to arrange their own housing.” (justiciable, s.19) |
| Germany | A specific right to education is not articulated. However, art. 7 gives the state oversight over the education system, parents the choice to have their children receive religious education, and permits private schools provided certain conditions are met. | Not present. | Not present. |
| New Zealand | Not present. | Not present. | Not present. |
| Portugal | Justiciable right to education for all. The state is tasked with “ensuring universal, compulsory and free basic education,” creating a pre-school system, eliminating illiteracy, progressively making all levels of education free of charge, ensuring access to and support for the education of disabled individuals (art. 74). | Justiciable right to health care to be realised via a national health service that is universal and general and which “shall tend to be free of charge” (art. 64). The state is assigned primary responsibility for guaranteeing access to preventative, curative, and rehabilitative healthcare regardless of ability to pay, ensuring nationwide coverage, | All individuals have a justiciable right to social security (art. 63(1)). <i>Housing:</i> everyone is entitled to adequately sized housing. The state is required take action to realise this and to allow public participation in the development of relevant policy (justiciable, |

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| | The state is also responsible for the licensing and regulation of private educational institutions (art. 75). | “work[ing] toward the public funding of the costs of medical care and medicines” and regulating private healthcare provision (art. 64). | art. 65). <i>Old Age:</i> notwithstanding contributory pensions, the elderly have the right to economic security and to circumstances of housing and community that respect their personal autonomy. The state is required to establish policies for the elderly that address their economic, social, and cultural needs and provide opportunities for personal fulfilment (justiciable, arts. 67(2), 72). <i>Disability:</i> citizens with disabilities are entitled to the full enjoyment of their rights and subject to the constitutional duties that their condition permits. The state is required to develop policy for the prevention, treatment, rehabilitation, and reintegration of disabled citizens as well as the provision of support to their families (justiciable, art. 71). |
| Spain | Justiciable right to free elementary education (which is also compulsory). Private educational institutions may be established but must respect the principles of the Constitution (art. 27). | Right to health protection; state tasked with ensuring appropriate preventative measures and providing necessary benefits and services. The specifics of the State’s obligation are to be established by law (aspirational, art. 43). | <i>Old Age:</i> right of the elderly to an adequate pension and the promotion of their welfare through a system of social services (aspirational, art. 50). <i>Disability:</i> the public authorities are to take measures to ensure disabled individuals are able to enjoy the rights granted to all citizens. In particular they are to provide the necessary specialised care they require (aspirational, art. 49). <i>Housing:</i> right to adequate housing; state to promote conditions and standards to realise this right, particularly the regulation of land use and the prevention of speculation (aspirational, art. 47). |
| Switzerland | Justiciable guarantee of a free and adequate basic education (art. 19). That guarantee is supplemented by a number of aspirational rights relating to the ability of individuals to access “advanced training in accordance with their abilities” (41(1)(f)) while several additional articles relate to particular aspects of education in vocational and profession (art. 63), higher (art.63a), grants to students to pursue higher education (art.66), musical education (art. 67a), sport (art. 68), and culture (art.69). | Confederation and Cantons, “as a complement to personal responsibility and private initiative” are to “endeavour to ensure” access to health care (aspirational, art. 41(1)). Additionally, the state is to establish health and accident insurance by law and may declare it compulsory (aspirational, art. 117). Further, the Confederation and the Cantons shall, within their respective powers, ensure the adequate provision of primary medical care accessible to all and promote family medicine as an essential component of primary care (aspirational, art. 117a). | Persons in need and unable to provide for themselves have a justiciable right to assistance (art. 12). <i>Social Insurance:</i> Supplementary benefits will be provided to those whose basic expenses are not met by the benefits provided via the Old-age, Survivors’, and Invalidity insurance, the amount of such benefits to be determined by law (aspirational, art. 112a). <i>Maternity:</i> The confederation is required to establish a maternity insurance scheme and may require persons who cannot benefit from that scheme to contribute (aspirational, art. 115(4)). <i>Housing:</i> The Confederation and Cantons to endeavour to ensure that individuals are able to secure suitable accommodation (aspirational, art. 41). No more than 20% of the total stock of residential units and |

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| | | | gross residential floor area in any commune may be used as second homes (aspirational, art. 75b) In addition, the Confederation is required to take particular account of the interests of families, the elderly, those with disabilities, and low income persons when encouraging the increase of housing stock (aspirational, Art. 108) <i>Food & Water:</i> General management addressed, but no specific guarantees made (arts.76, 104a). |
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Cultural Rights

| | Culture/Language Rights | Indigenous Rights |
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| Australia | Not Present (protected by some states at the subnational level). | Not Present (protected by some states at the subnational level). |
| Finland | Protection of the rights to use one's own languages in courts and with other authorities, and for specific protection of indigenous, Roma, and other minority languages. The National languages are Finnish and Swedish (art. 17). | The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act. The rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act (justiciable, s. 17). |
| Germany | Not Present | Not present. |
| New Zealand | A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority (weak-form, s. 20). | Rights are diffuse throughout the legal order, rather than a specific constitutional text. The Treaty of Waitangi/Te Tiriti Waitangi, signed between the British Crown and Māori (a people indigenous to New Zealand) leaders in 1840, is regarded as having quasi-constitutional status. Both the text of the Treaty, as well as its subsequent interpretation by courts, impose significant obligations on the government to engage in partnership with Māori, and to respect (and honour) claims for self-determination and redress for Treaty breaches. |
| Portugal | Justiciable right. The state, in cooperation with civil society, must "promote the democratisation of culture by encouraging and ensuring access by all citizens to cultural enjoyment and creation" (justiciable, art. 73(3)). | Not present. |
| Spain | Article 44(1) – which is aspirational – requires public authorities to safeguard culture, "to which all are entitled". The preamble to the constitution makes reference to the "culture and traditions, languages and institutions" of "all Spaniards and peoples of Spain". Article 3 protects Castilian as "the official Spanish language of the State", but also provides that "other Spanish languages shall also be official in the respective self-governing communities". Article 3(3) affirms the linguistic diversity of Spain. | Not present. |
| Switzerland | While not a specific right, cultural issues are provided for in the constitution. Article 69(1) specifies that cultural matters are the responsibility of subnational cantons. Article 78 regulates the protection of national cultural heritage. Article 18 provides that "the freedom to use any language is guaranteed", while article 70 sets out protections for official languages. | Article 72(2) requires subnational cantons to "respect the traditional distribution of languages and take account of indigenous linguistic minorities". |

| “New Rights” | | | | |
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| | Environmental Rights | Digital Rights | Consumer Rights | Children and Young People |
| Australia | Not present. | Not present. | Not present. | Not present at the federal level (included in constitutionally-significant statutes in some states). |
| Finland | Justiciable right which has been interpreted as giving rise to procedural guarantees. Article 20 provides that the environment is the responsibility of everyone. It also provides that public authorities “shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.” | A general justiciable right to privacy is included at article 10. That article also provides that “More detailed provisions on the protection of personal data are laid down by an Act”, and that “The secrecy of correspondence, telephony and other confidential communications is inviolable.” | Not present. | Article 6 protects the rights of children to be treated as equals, and to “influence matters pertaining to themselves to a degree corresponding to their level of development”. Article 19 guarantees social security for families raising children. |
| Germany | Non-justiciable state responsibility. Article 20A imposes environmental obligations on the state that cannot be enforced by courts: “Mindful also of its responsibility toward future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.” | Justiciable right. Germany’s general privacy provision (article 10), together with protections on human dignity and personal freedoms (articles 1-2), have been found to require state action to protect personal data. | Not present. | Article 6 sets out rights and duties of parents in relation to children. It affirms that caring for children is “the natural rights of parents and a duty primarily incumbent upon them”, and restricts the circumstances in which children can be removed from their parents. Article 7(2) guarantees the right of parents to decide on whether their children receive religious instruction. Article 6(5) protects children from discrimination based on whether they are born outside of wedlock. |
| New Zealand | Not present. | Not present. | Not present. | The New Zealand Bill of Rights Act 1990 is a statute recognised to be of constitutional significance. Article 25(i) protects the right of a child, charged with a criminal offence, “to be dealt with in a manner that takes account of the child’s age”. |
| Portugal | Justiciable right. Article 66(1) includes a general “right to a healthy and ecologically balanced human living environment and the duty to defend it”. Article 66(2) sets out specific state duties, | Justiciable right. Article 35(1) protects the right of citizens to access and correct personal data. Article 35(2) requires the state to define the concept of “personal data” and to regulate it through an independent | Justiciable rights. Consumer rights are established in article 60. Article 60(1) sets out a general rights of consumers to “the good quality of the goods and services consumed, to training and information, to the protection of health, safety and their | Article 36(4) protects children against discrimination based on whether or not they are born in wedlock. Article 36(5) provides that parents have both a right and duty to educate and maintain their children, and restricts the circumstances in |

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| | <p>including pollution control, planning, conservation, resource use, preservation, policy integration, environmental education, and fiscal policy.</p> <p>Article 52(3) protects the right of citizens to petition in cases of violation of environmental rights under the <i>actio popularis</i> procedure.</p> | <p>administrative body.</p> <p>Article 35(3) requires individual consent for certain uses of data. Article 35(4) prohibits third-party access to personal data, except “in exceptional cases provided for by law”.</p> <p>Article 35(5) prohibits “the allocation of a single national number to any citizen”.</p> <p>Article 35(6) guarantees free access to public-use computer networks.</p> <p>Article 35(7) extends all these protections to manually-held data.</p> | <p>economic interests, and to reparation for damages”.</p> <p>Article 60(2) requires that advertising be regulated, and concealed, indirect, and fraudulent advertising be prohibited.</p> <p>Article 60(3) specifically protects consumer associations.</p> <p>Article 52(3) protects the right of citizens to petition in cases of violation of consumer rights under the <i>actio popularis</i> procedure.</p> | <p>which children can be separated from parents. Article 64 sets out specific health-related rights and obligations for children and young people. Article 67 provides protection for the family, including a right of the family to be protected “by society and the state”.</p> <p>Article 68 sets out specific social security and labour rights for pregnant and post-partum women, as well as family leave rights for fathers. Article 69 sets out specific rights for children, including “the right to protection by society and the state”. Article 70 contains specific protections for young people.</p> <p>All the rights listed above are judicially enforceable.</p> |
| Spain | <p>Article 45 establishes aspirational environmental rights.</p> <p>Article 45(1) sets out a general right of individuals “to enjoy an environment suitable for the development of the person, and the duty to preserve it”.</p> <p>Article 45(2) imposes a duty on public authorities to “watch over a rational use of all natural resources with a view to protecting and improving the quality of life and preserving and restoring the environment, by relying on an indispensable collective solidarity.”</p> <p>Article 45(3) requires that sanctions be imposed for violations of article 45(2).</p> | <p>The Constitution of Spain contains a justiciable right to privacy, which states that “the law shall restrict the use of data processing in order to guarantee the honour and personal and family privacy of citizens and the full exercise of their rights” (art. 18(4)).</p> | <p>Non-justiciable right.</p> <p>Article 51(1) requires public authorities to guarantee consumer protection.</p> <p>Article 51(2) requires public authorities to promote consumer information and education, and support consumer organisations. Article 51(3) requires that the law “regulate domestic trade and the system of licensing”.</p> <p>Article 51 is aspirational.</p> | <p>Article 27(3) protects the right of parents to decide whether their child receives religious instruction. This right is judicially enforceable.</p> <p>Article 39 sets out rights of children to protection of the law, and to freedom from discrimination on the basis of whether or not they are born in wedlock. It also guarantees children the benefit of their rights guaranteed in international law. These rights are aspirational.</p> |
| Switzerland | <p>Article 73 provides generally that “The Confederation and the Cantons shall endeavour to achieve a balanced and sustainable relationship between nature and its capacity to renew itself and the demands placed on it by the population.” However, the extent to which this article is justiciable is unclear.</p> <p>Articles 74-80 then impose specific obligations on the federal and subnational</p> | <p>Article 119(2) restricts the use of gene technology involving humans.</p> | <p>Not present.</p> | <p>Article 11(1) guarantees the rights of children and young people to “the special protection of their integrity and to their encouragement and development”. This right is enforceable.</p> <p>Article 41 sets out a range of aspirational “social objections”. Several of these make reference to children and young people.</p> <p>Article 67 directs national and subnational governments to “take account of the special</p> |

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| governments, including environmental legislation, spatial planning, national land survey, restrictions on second homes, water, forests, protection of national heritage, fishing and hunting, and animals. | | | need of children and young people to receive encouragement and protection". Article 116 sets out social security responsibilities that specifically relate to children and families. |
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Table A A.2. Comparative Perspective on Systems of Government: Heads of State and Heads of Government

| Heads of State | | | | | |
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| Country | Name and general functions | Pardons and army powers | Legislative powers | Ceremonial and/or Procedural Powers | Substantive powers |
| Australia | Governor-General. Not part of the government or the opposition, must remain neutral. | Pardons on the advice of the Attorney-General. Army powers on the Governor-General with the advice of the ministers of the government | Legislation needs its assent (royal assent) to start its effect. This power has never been used. | Ceremonial role in receiving oath and accepting the resignations of Members of Parliament. Meeting foreign heads of state and ambassadors. | All faculties are exercised "in council". Can dismiss the PM, and dissolve (or refuse to dissolve) the parliament, on the advice of the PM. |
| Colombia | President. Head of Government and Head of State. | Can grant pardons and is Supreme Commander of the Armed Forces. | Urgency powers, forcing the congress to debate a law in 30 days, and can change the legislative agenda by insisting in the urgency. Can veto sending back for discussion any bill. Has decree powers, must enact rules for implementation of certain laws, can propose bills for its discussion in the parliament. | Appoint members of the government and authorities of some administrative departments. Directs international relations. Budget law is prepared by the government. Parliament needs governmental agreement to modify budget. | Can convoke the parliament for extraordinary sessions, controls and present the plan of budget and national investment, oversees general policy of the government, chooses ministers, celebrates agreements and international treaties. |
| Costa Rica | President. Head of Government and Head of State. Some of these powers must be exercised jointly with the respective Minister (arts. 139 and 140). | Pardons through the Council of Government. Exercises the supreme command of the public force, through the Council of Government, presided by the President. | It has right of initiative and Veto. Sanction and promulgate laws, issue decrees for its implementation. | Represents the Nation and directs the international relations, receiving foreign representatives. Decrees and orders of the Executive Power, require the signatures of the President of the Republic and of the Minister of the branch. | Choose ministers, celebrate agreements and public treaties. Convoke the Legislative Assembly to ordinary and extraordinary sessions. Prepare and send to the Legislative Assembly the bill of National Budget. Decide in case of |

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| | | | | | disagreements between the parliament and the budgeting department. |
| Finland | President. Elected by direct vote. Can send back an act for further consideration of the parliament. Mainly ceremonial role. | Can grant pardons. Is also the commander-in-chief, but on the advice of the Government. | Issue decrees. Acts shall be submitted to the President for confirmation, who has three months to decide. The President may obtain a statement on the Act from the Supreme Court or the Supreme Administrative Court. | The President appoints the heads of Finland's diplomatic missions abroad (ambassadors). Diplomats present their credentials to him. Appoints Ministers in accordance with a proposal made by the PM, and appoints the PM. | Can issue an order concerning extraordinary parliamentary election. If the President does not confirm an Act, it is returned to the Parliament, who can insist. |
| France | President. Chooses the Prime Minister. Lower house can dismiss the PM, so the president must name a PM who commands wide support. Appoints members of the government and presides over the council of ministers. | Can grant pardons. Is also Commander-in-Chief of the Armed Forces and presides the higher national defence councils and committees. | Can force the parliament to reopen debate on laws, parliament cannot refuse. Can refer Acts to the Constitutional Council before their promulgation. May refer treaties or certain types of laws to popular referendum. | President accredits ambassadors and envoys (Art. 14). Signs the Ordinances and Decrees deliberated upon in the Council of Ministers. | President of the Republic shall negotiate and ratify treaties. He also appoints three members to the Constitutional Council, and also appoints its President, who has casting vote in case of a tie. Can dissolve the Parliament. Exceptionally can rule by decree when there's a "serious and immediate threat". |
| Germany | Federal President. Upon proposal of the Federal Chancellor or when no federal chancellor can be elected, can dissolve the bundestag. Can veto laws, by not signing and preventing to promulgate them. | Can grant pardons but no powers over the army. | Can veto laws, by not signing them and preventing to promulgate them (art. 82). | Appoints and dismiss members of the federal government upon the proposal of the chancellor. Can awards honours and represent Germany at home and abroad. | Propose a chancellor candidate to the Bundestag, declare "state of legislative emergency" allowing the federal government and the Bundesrat to enact laws without the Bundestag. Can dissolve the bundestag in some cases. |
| Ireland | President. Mainly ceremonial. Can dissolve the Lower House upon the advice of the PM and also refuse to do it. Can refer any bill to the Supreme Court, before | Can grant pardons and is the Commander-in-chief, but on the advice of the Government. | Promulgate the laws made by the parliament. Can't veto bills but can refer them to the Supreme Court asking for abstract constitutional review. Can also delay | Appoints the PM upon Lower House's nomination, and also members of the government on advice of the PM and approval of the Lower House. Similarly, | The President can convene a meeting of either or both Houses of the Parliament, but must first consult with the |

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| | promulgation, for abstract constitutional review. | | promulgation for 2 days, and can call a referendum to pass a bill. | appoints Judges, the Attorney General, the Comptroller and Auditor General, and others. | Council of State. Can address a message to the nation on any matter, with the approval of the government and after consultation with the council of State. |
| New Zealand | Governor-General. Represents the queen. Ceremonial powers only. | On the Advice of the Government can grant pardons, and has powers over the army on the advice of the Minister of Defence. | No. | Gives "Royal Assent" to transform bills into official laws. However, by convention, cannot veto a bill. | The governor-general may reject the advice to dissolve parliament if the prime minister has recently lost a vote of confidence. |
| Portugal | President. Directly elected by vote. | Can grant pardons and is Supreme Commander of the Armed Forces. | Can avoid promulgating. Can ask the Constitutional Court for a preventive control of constitutionality. If the Constitutional Court rules unconstitutional the president may not promulgate and the bill returns to the parliament. Can exert a purely "political" veto, that the government can't get around, but the Parliament can. | Represents the Portuguese Republic. Appoints ambassadors and envoys at proposal from the Government. Accredits foreign diplomatic representatives and ratifies international treaties. Appoints the prime minister. | Dismiss the government, following a hearing of the Council of State. Can dissolve the Assembly of the Republic in some cases, setting the date of new parliamentary elections at the same time. |
| Spain | King. According to the Constitution. Assumes the highest representation of the Spanish State in international relations, especially with the nations of its historical community" (Art. 56). | Can grant pardons and is the Commander-in-chief, but on the advice of the Government, who directs defence. | The king sanctions and promulgate laws, can also call for a referendum and issue some decrees. | Accredits ambassadors and diplomatic representatives, gives assent to international commitments through treaties. Proposes and appoints candidates for Presidency of the Government, as well members of the Government on the President proposal. | Approves general legislation by sanctioning and promulgating the laws, and can also summon and dissolve the Parliament and call for elections under the terms provided for in the Constitution. |
| Switzerland | Federal Council. 7-member collegiate body. The president is a 1-year rotating member of the Federal Council, who has not other extra powers over the other members than represent Switzerland abroad. | See section on Head of Government | | | |

| Switzerland | Federal Council. 7-member collegiate body. The president is a 1-year rotating member of the Federal Council, who has not other extra powers over the other members than represent Switzerland abroad. | See section on Head of Government | | | | |
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| Heads of Government | | | | | | |
| Country | Name and general functions | Pardons and Army powers | Legislative powers | Ceremonial and/or Procedural Powers | Substantive powers | Additional information |
| Australia | Prime Minister. Defines and carries out national policy with members of the government | Can't grant pardons. PM decides whether or not to send Australian troops to war zones. | Introducing bills to the parliament, through the Government. | Acts as the chief government spokesperson, represents the Government and advises the Governor-General on the appointment of ambassadors and government members. | Chairs policy and legislative meetings of the Government. Selects members of the government to be ministers. Advises the Governor-General about constitutional matters and on when to call a federal election. | |
| Colombia | President. | See Head of State. | See Head of State. | | | |
| Costa Rica | President. | See Head of State. | See Head of State. | | | |
| Finland | Prime Minister. Directs the activities of the Government, chairs its meetings and oversees the preparation and consideration of its matters. | Can't grant pardons. On the proposal of the Government, the President of the Republic decides on the mobilisation of the defence forces | Has Right of Initiative. Can send a Bill to the Parliament and issue decrees that don't deal with rights and obligations of individuals. | Represents Finland on the European Council, the European Union, and abroad. Drives foreign policy through the Minister of foreign affairs. | Issue the state budget to be discussed by the parliament. Prepare the decisions to be made in the European Union. Chairs sessions of the Government, deciding days and order of discussions. Coordinates Government and Parliament work. | The negotiation of the governmental political program is made by the parliament in session, before electing the Prime Minister and its government. The election is based on the result of the discussion. |
| France | Prime Minister. Directs the actions of the Government, oversee everyday policy guidelines. Relative political power depend on his status as opposition or not. | Can't grant pardons. Jointly with the President. Prime Minister shall be responsible for national defence. | It has right of initiative. Must discuss all proposals in the Council of Ministers, presided by the President. | Countersign some instruments of the president of the republic. The agenda of the Council of Ministers is decided | Recommends the appointment and removal of government members. Can call extraordinary parliament sessions. Must ensure the coordination of | |

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| | | | | jointly by the President and the Prime Minister. | Government action and prevent different ministers from taking contradictory initiatives. | |
| Germany | Federal Chancellor. Leader of the majority coalition in the Parliament. | Can't grant pardons. Is the commander-in-chief. | Having right of initiative can introduce bills in the Bundestag. | May set the number of cabinet ministers and dictate their specific duties. | Nominates Vice Chancellor and determines policy, and the composition of the Federal Cabinet, whose meeting she chairs. Ministers prepare legislative proposals autonomously as long as consistent with the chancellor's broader guidelines. | If the Bundestag wants a removal of the Chancellor, it must elect another one. This prevents power voids. |
| Ireland | Taoiseach (Prime Minister). Central coordinator of the work of the Ministers, setting Government policy and keeping the President informed. | Can't grant pardons. Has powers over the army, vested collaboratively in the government and the President. | May sponsor legislation and participate in debates in the parliament. The lower house shall not pass some financial bills unless recommended by a message from the Government. | Appoints the Deputy PM and dismisses the Attorney General, nominates 11 people to serve in the House of Lords. | Advise the president to dissolve the Lower House and request a member of the Government to resign. Also assigns particular Departments to the Ministers. | There's a Council of State that "aid and counsel the president on all matters on which the president may consult the said council in relation to the exercise of powers". |
| New Zealand | Prime Minister. Sets the Cabinet agenda, thereby controlling items for discussion. Appoints and dismisses ministers, and allocate portfolios. Principal adviser to the sovereign. | Can't grant pardons. PM customarily has overall ministerial responsibility for national security and intelligence matters | Determines the title and scope of each portfolio, including legislation administered within the portfolio. Publishes laws and administers all legislation, making sure it gets implemented. Can veto some bills that would have a "fiscal impact". | Confers New Zealand honours. Appoints the Governor-General. Principal advisor to the Governor-General on appointing, dismissing or accepting the resignation of ministers. | Calls general elections by advising the governor-general to dissolve parliament. Approves the agenda of the cabinet, leads its meetings, and is the final arbiter of Cabinet procedure. Oversees the government's general policy direction. | |
| Portugal | Prime Minister. Can hold the role of head of government with the portfolio of one or more ministries. Conducts the country's general policy and the supreme authority in | Can't grant pardons. Acting as a council, PM can propose the President the declaration of War. | Negotiating and finalising international agreements. Presenting and submitting government bills and draft resolutions | PM counter-signs acts of the President of the Republic | Directing the Government's work and general policy. Presides the Council of Ministers that defines policy and its implementation. | |

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| | the Public Administration. | | to the Assembly of the Republic. Makes executive laws and has exclusive responsibility to legislate on matters that concern its own organisation and proceedings. | | Passes Government acts that reduce public revenues or expenditure. | |
| Spain | President. It's responsible to the parliament. Conducts domestic and foreign policy, civil and military administration. | Can't grant pardons. Makes the most important decisions on national defence. | Through the Council of Ministers, approves draft laws and international treaties and refers them to the parliament, approves the General State Budget Bill, Royal Decree-Laws and Royal Legislative Decrees. | Countersign acts of the King. Resolves conflicts of powers that may arise between the different ministries. He also calls, chairs and sets the agenda for the meetings of the Council of Ministers. | Create ministry departments, establish the political program and its policies, and ensure its implementation. Can propose the king, after consulting with the Council of Ministers, to dissolve the parliament. Can promote an motion of "no confidence". | |
| Switzerland | Federal Council. A 7 member collegiate body that reaches decisions collectively by unanimity. The Federal Administration is organised into Departments, each headed by a Federal Council member. | Can't grant pardons, only the Federal Council on Pardons or cantonal authorities (for cantonal crimes) can do it. It may mobilise the armed forces, but the Federal Assembly generally must be convened. | Right of general legislation initiative. Can submit drafts of legislation to the Federal Assembly. Can enact by-laws and also must implement legislation. | Signs and ratifies international treaties. It submits them to the Federal Assembly for approval. Supervises the Federal Administration and the other bodies entrusted with federal duties. Is responsible for maintaining relations between the Confederation and the Cantons. It may object to treaties between Cantons or between Cantons and foreign countries. | Is in charge of the Federal Administration, and ensures the implementation of legislation, the resolutions of the Federal Assembly and judgments of federal judicial authorities. Manages the federal budget, submitting a multi-year financial plan and an annual budget to parliament. | Reaches its decisions as a collegial body. All members must stand by the decisions, even if a decision may not accord with their personal or party views. There's also a Federal Chancellor that acts as the General Staff and can attend Federal Council meetings (without vote). |

Table A A.3. Comparative overview of constitutional provisions on multi-level governance and territorial organisation

| Territorial Organisation | | | | | | | |
|--------------------------|---|--|--|---|--|--|---|
| Country | Territorial organisation | | | Prescribed levels of sub-national units | | | |
| | Recognition of principle of decentralisation | Provision for number of units and configuration | Drawing and protection of boundaries | General decentralisation | Special autonomy | Indigenous communities | Cities |
| Finland | Present in the Constitution. The constitution affirms the "self-government" of municipalities. | Present in the Constitution. The constitution requires territorial divisions to be "suitable" to enable Finnish and Swedish-speaking populations receive services on their own language. | Present in the Constitution. | Present in the Constitution. | Present in the Constitution. The constitution recognises "linguistic and cultural self-government of Sami. | Absent in the Constitution. | Absent in the Constitution. |
| Portugal | Present in the Constitution. The Constitution protects "the autonomous island system of self-government" and "the principles of subsidiarity, the autonomy of local authorities, and... democratic decentralisation" of state administration. | Present in the Constitution. The Constitution identifies the territory of the autonomous islands comprising the Azores and Madeira archipelagos. | Present in the Constitution. The Constitution of Portugal requires alteration of municipal areas by legislation 'prior consultation' with the local authorities. | Present in the Constitution. The Constitution specifies more than two (municipal and regional) devolved levels. Also, it provides procedures through which territories can move between levels. | Present in the Constitution that specifies two levels of government for autonomous regions: municipalities and parishes. | Absent in the constitution. | The Constitution provides for the creation by law of specific forms of local government organisation for 'large urban areas'. |
| New Zealand ¹ | The country deals with this at legislation level. | Laws provides for both a level of general decentralisation and Indigenous self-governance. | Present at legislation level. | Present in the legislation. | The country does not have provisions for this. | Present in the legislation, on a treaty with Constitutional Hierarchy, the Treaty of Waitangi | Present in the legislation. |
| Colombia | Present in the Constitution. The Constitution provides that Colombia is to be 'decentralised, with autonomy of its territorial units'. | Present in the Constitution. | Present in the Constitution. | Present in the Constitution. The Constitution provides procedures for territories to move between levels. | Category not applicable to this jurisdiction. | Present in the Constitution. The Constitution recognises indigenous communities as a different territorial | Present in the Constitution. The Constitution creates a special regime applicable to Bogotá the capital. |

| | | | | | | unit. | |
|-------------|---|--|--|--|---|-----------------------------|--|
| France | Present in the Constitution. The Constitution provides that the state shall be 'organised on a decentralised basis'. | Present in the Constitution. The Constitution makes specific provision for each of the overseas territories of France (Article 72). | Present in the Constitution. | Present in the Constitution that provides procedures allowing territories to move between levels. Smaller territories can be integrated into larger regions. | Present in the constitution. | Absent in the constitution. | Present in the Constitution. Constitutional provision for special status communities has been applied by legislation to Paris, Lyon and Marseille. |
| Greece | Present in the Constitution that requires the administration of the State to be 'organised according to the principle of decentralisation'. | Present in the Constitution. The Constitution requires the territorial configuration of the state to be based on 'geo-economic, social and transportation conditions'. | Present in the Constitution. | Present in the Constitution. The Constitution specifies municipal and regional levels. | Present in the Constitution. The Constitution identifies the territory of the self-governing region of Aghion Oros. | Absent in the Constitution. | Absent in the constitution |
| Netherlands | Present in the Constitution that has a chapter dealing with sub-national government. | | Present in the Constitution that requires any alteration to boundaries to be approved by a central statute, thus requiring the approval of the territorially representative Upper House. | Present in the Constitution that provides for both 'provinces' and 'municipalities'. | Not special autonomy recognised. | Absent in the Constitution. | |
| Japan | Present in the Constitution. The Constitution mentions the principle of 'local autonomy'. | Absent in the constitution. The Constitution only deals with 'local self-government'. | Absent in the constitution. | Present in the Constitution. | Not applicable. | Absent in the Constitution. | Present in the Constitution. |
| Australia | Present in the Constitution. | Present in the Constitution. The constitution refers to the constituent units that are known at the time the Constitution is made. | Present in the Constitution. | Present in the Constitution. The Constitution specifies only a single level of general subnational government. | Not applicable. | | Present in the Constitution. |
| Germany | Present in the Constitution. | Present in the Constitution. The Constitution refers to the constituent units that were known at the time the Constitution was made. | Present in the Constitution. Article 79.3 Basic Law prohibits abolishing the federal structure, whose importance is also singled | Present in the Constitution. | Absent in the Constitution. | Not applicable | Absent in the Constitution. |

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| | | | out by the name of the State: Federal Republic of Germany. | | | | |
| Spain | Present in the Constitution. The quasi-federal Constitution guarantees 'the right to self-government of the nationalities and regions' comprising the State (Section 2), and also recognises both the administrative decentralisation of the state and a principle of autonomy. | Present in the Constitution. The Constitution refers to the constituent units that are known at the time the Constitution is made. | Present in the Constitution. | Present in the Constitution. The Constitution provides for both 'provinces' and 'municipalities'. | Present at the Constitutional level. | Absent in the Constitution. | Absent in the constitution |
| Canada | Present in the Constitution. | Present in the Constitution. The Constitution refers to the constituent units that are known at the time the Constitution is made. | Present at constitutional level. Any change requires not only central legislation but also the approval of the legislature of the affected province (Art 43). | Present in the Constitution. The Constitution specifies only a single level of general subnational government. Local government derives from provincial statutes. | Absent in the constitution. | Absent in the Constitution. | Absent in the constitution. |

Structure of Sub-national government

| Country | Structure of Sub-national government | | Provision for sub-national government institutions | | | |
|----------|---|----------------------------------|---|--|---------------------------------|----------------------------------|
| | Degree of autonomy | Provisions for asymmetry | General decentralisation | Special autonomy | Indigenous communities | Cities |
| Finland | Present at Constitutional level. Municipal and regional administration shall provide for the 'self-government' of their residents. The Sami have 'linguistic and cultural self-government'. | Present at Constitutional level. | Present at Constitutional level. The Constitution requires subnational self-governing administrations, but leaves legislation to determine the form of the institutions themselves (Section 121). | Present at Constitutional level. | Absent at Constitutional level. | Absent at Constitutional level. |
| Portugal | Present at Constitutional level. The Constitution provides for the 'autonomy' of the generally devolved units. Azores and Madeira can have 'their own political and administrative statutes and self-government institutions. | Present at Constitutional level. | Present at Constitutional. The Constitution prescribes legislative and executive branches of government for its autonomous regions. | Present at Constitutional level. The Constitution suggests a significant level of autonomy for particular territorial communities. | Absent at Constitutional level. | Present at Constitutional level. |

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| New Zealand | Present at legislation level. | Present at legislation level. | Present at legislation level. | Not applicable. | Present at legislation level. | Absent at legislation level. |
| Colombia | Present at Constitutional level. The Constitution provides for self-governance of indigenous territories on specified matters, which may be supplemented by statute. | Present at Constitutional level. Differential treatment between generally devolved units, indigenous territorial units, and the Capital. | Present at Constitutional level. | Not applicable. | Present at Constitutional level. The Constitution provides for traditional council government in indigenous territories. | Present at Constitutional level. The Constitution provides for council governance in respect of Bogotá. |
| France | Present at Constitutional level. The Constitution provides that territorial communities are to be 'self-governing'. | Present at Constitutional level. | Absent at Constitutional level. | Present at Constitutional level. The Constitution provides for elected councils. | Absent at Constitutional level. | Absent at Constitutional level. |
| Greece | Present at Constitutional and Legislation level. The Constitution requires local government agencies to enjoy 'administrative and financial independence'. Aghion Oros is declared to be 'self-governed and sovereign' with special responsibility for spiritual matters. | Present at Constitutional level. | Present at Constitutional. The Constitution provides only for elected local government agencies. | Present at Constitutional level. The Constitution recognises a distinctive monastic system of government for the Aghion Oros region. | Absent at Constitutional level. | Absent at Constitutional level. |
| Netherlands | Present at Constitutional level. | Absent at Constitutional level. | Present at Constitutional level. The Constitution provides for legislative councils and a form of executive government at both the provincial and municipal level. | Absent at Constitutional level. | Absent at Constitutional level. | Absent at Constitutional level.,. |
| Japan | Present at Constitutional level. The Constitution recognises the principle of 'local autonomy'. | Present at Constitutional level. | Present at Constitutional level. | Not applicable. | Absent at Constitutional level. | Absent at Constitutional level. |
| Australia | Present at Constitutional level. | Present at Constitutional level. | Present at Constitutional level. | Not applicable. | Absent at Constitutional level. | Absent at Constitutional level. |
| Germany | Present at Constitutional level. | Present at Constitutional level. | Present at Constitutional level. | Not applicable. | Not applicable. | Absent at Constitutional level. |
| Spain | Present at Constitutional level. The Constitution identifies where regions can make laws with the status of full legislation, subject to review by the Constitutional Court. | Present at Constitutional level. Autonomy statutes of regions differ between autonomous communities. | Present at Constitutional level. The 'name, organisation and seat' of sub-national institutions are governed by the applicable statute of autonomy. | Present at Constitutional level. | Absent at Constitutional level. | Present at Constitutional level. |
| Canada | Present at Constitutional level. The | Present Constitutional level. | Present at Constitutional level. | Present at Constitutional | Absent at | Absent at |

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|--|--|--|--|--------|-----------------------|-----------------------|
| | Constitution recognises indigenous self-government by affirming the 'aboriginal and treaty rights' and include rights by way of land claim agreements. | The province of Quebec is guaranteed some special treatment under the Constitution (like Supreme Court composition). | | level. | Constitutional level. | Constitutional level. |
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Note:

1. New Zealand has no written entrenched constitution in the form of a written instrument or instruments that provide a framework for the system of government. Instead, in New Zealand, rules that elsewhere usually have at least a foundation in a written constitution are provided in statutes, judicial decisions and, importantly, a treaty with some of the Indigenous peoples of New Zealand. To reflect this situation as accurately as possible, the table attributes the New Zealand framework for multi-level governance to legislation and other sources even though, in context, some of these have constitutional significance.

Table A A.4. Comparative Perspective: Means to ensure constitutionality

| Country | Title and General note | Composition and appointment | Standing rights and procedures | Type of Adjudication | Effects of Decisions |
|-----------|---|---|--|--|---|
| Australia | High Court. Diffuse system. Can also be carried out by ordinary courts whenever a constitutional question is raised. | 7 judges, appointed by Governor-General in council, and with formal consultation with a judicial appointments commission. | Counsels can raise issues during cases, but most importantly, if legislation cannot be interpreted in a human rights-consistent manner, the High Court can issue a non-binding "declaration of incompatibility". Also, some bills must come with a Statement of Compatibility with the Human Rights Act. | No formal means of adjudication, besides the ordinary diffuse control carried out by every court. High Court can issue Declaration of Incompatibility, a message for the parliament. | Can't strike down. |
| Austria | Constitutional Court. Not permanently in session, but commonly convenes four times a year for three weeks at the behest of the President. | 14 members. President and vice president appointed by the federal government and parliament on political basis. Six substitute members. 70 years limit. Legal, political science background and 10 years experience required. | Ordinary courts have to approach the constitutional court whenever they have doubts on a norm they have to apply in a certain case or this is raised by an individual. Ombudsman municipalities whose ordinances has been rescinded in some cases. | Concrete. Ordinary courts can approach the Constitutional Court to assess constitutionality of a norm. Parties in civil proceedings can file an appeal to the Constitutional Court if a provision is unconstitutional. | Can repeal provisions by declaring them totally or partly unconstitutional and void. It binds all administrative and judicial authorities but not the legislator. Court can postpone the effect of the repeal allowing the legislator to remedy the unconstitutionality of the provision. |
| Colombia | Constitutional Court. Appointments allows for political influence, but make the Court | 9 judges. Appointed by the Senate, proposed by the President (3), Supreme Court (3) and State Council | Anyone through acción de tutela or public action of constitutionality (API). | Concrete and Abstract. In Public Actions of Unconstitutionality (tutelas), the court can review of actions of unconstitutionality presented by citizens to ordinary courts. The court decides | If the Court declares treaties constitutional, the Government may exchange said notes; in the contrary case the laws will not be ratified. |

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| | somewhat difficult to pack. | (3) for an 8-year tenure. | | definitively on international treaties, that may not be ratified. Abstract on constitutionality of bills, decrees that declare emergency, simple laws or laws that amend the constitution, and referenda. | |
| Finland | Constitutional Law Committee. Not a court but a parliamentary committee whose task is to issue statements on bills. | At least 17 members. The composition the committee reflects the relative strengths of the parliamentary groups. | The Committee is only called on when doubts about the constitutionality of a bill have been raised. The Committee's assessment is binding on Parliament, but the latter can still enact using the qualified procedure required for amending the Constitution. | Concrete and Abstract. In any case in which the application of an Act would be in evident conflict with the Constitution, the court of law shall give primacy to the provision in the Constitution. The Committee issues statements on the constitutionality of legislative proposals and international human rights treaties. | The Committee's assessment is binding on Parliament. The parliament can still enact unconstitutional bills by the qualified procedure required for amending the Constitution. |
| France | Constitutional Council. Not a court, but a Constitutional body. | 9 judges. Appointed 3 by President, 3 by the Senate and 3 by the National Assembly, plus ex presidents who may opt in/out. President of the Council vote is tiebreaking. | The QPC is popular, before any court. Any person who is involved in legal proceedings before a court can argue that a statutory provision infringes rights and freedoms guaranteed by the Constitution. If the issue complies with admissibility conditions, the court submits it to the Conseil d'État or the Cour de Cassation that decides to submit it to the Constitutional Council, who can repeal the provision. | Concrete and Abstract. QPC is concrete. Abstract, before their promulgation, Institutional Acts shall be referred to the Constitutional Council who rules on their conformity with the Constitution. Organic Laws, shall not be promulgated until the Constitutional Council has declared their conformity with the Constitution. | A provision declared unconstitutional shall be neither promulgated nor implemented. Binding on public authorities and on all administrative authorities and all courts. |
| Germany | Federal Constitutional Court. | 16 judges that act divided in 2 senates of 8 members each. 12 years in office. 4 members elected by the bundesrat and 4 members elected by the bundestag for each senate. | The Constitutional Complaint is popular. The applicant must have used every possible other remedy. Abstract review of a parliamentary statute can be presented only by Federal, Land government, or parliament. If a court concludes that a law on whose validity its decision depends is unconstitutional a decision shall be obtained from the Federal Constitutional Court. | Concrete and Abstract. Constitutional Complaint (Verfassungsbeschwerde) can be presented against judicial decisions by any person if her fundamental rights are violated by public authority, when no other legal recourse exists. Abstract review It is instituted at the request of the Federal, Land government or of one third of the members of the Bundestag. | Can strike down, unless there's a tied vote. |
| Mexico | Supreme Court. Responsible for the Control of Constitutionality the amparo and can adjudicate jurisdictional disputes between the Federation and federal | 11 judges. Pre-selection of candidates, by the President of the Republic, and election and appointment, by the Senate. | Amparo it's a popular action and can be promoted by any person in Mexico. The Constitutional Controversy can be lodged by authorities among which the competence controversy arises. Actions of Unconstitutionality can be brought by legislators, the Attorney General of the Republic, political parties and National | Concrete and abstract. Amparo is concrete to protect human rights established in the Constitution and international treaties. Constitutional Controversies are basically competence conflicts. Action of Unconstitutionality addresses possible contradiction between the Constitution and some norm or provision, to leave it without effect. | In the case of Amparo, after two decisions laws can be expunged. In the case of the Constitutional Controversy, the disposition can be declared invalid and without further effects. In the case of Actions of Unconstitutionality, if the court declares a norm to be contrary to the Supreme Law, it may not be |

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| | member states. | | Human Rights Commission. | | reinstated or applied to any person. |
| New Zealand | Supreme Court. No formal jurisdiction nor constitutional remedy. | 6 judges. Appointed by the Governor-General, on the advice of the Prime Minister and Attorney-General. 7 years of experience as a barrister minimum. Mandatory retirement at 70. | Since leading case R v. Hansen (2007) counsels can seek a declaration of inconsistency of a provision with standards of the Bill of Rights on a concrete case, but they're not allowed to strike down provisions. It facilitates a dialogue with the political branches. | No adjudication. Courts can declare an "inconsistency" when they consider an Act to infringe fundamental human rights in a way that cannot be justified in a free and democratic society. Attorney-General does abstract control of bills, checking the consistency between a bill introduced in the parliament and the NZBORA. Nothing prevents the parliament passing inconsistent laws. | Cannot strike down but only issue a "Declaration of Inconsistency". |
| Portugal | Constitutional Court. | 13 judges. 10 appointed by the assembly and 3 by the ten court members. Six shall obligatorily be chosen from among the judges of the ordinary courts, and the others from among jurists. They last 9 years. | People don't have direct access, but through ordinary courts where they can ask for the unconstitutionality of a provision through appeal. The Public Prosecutor Office is entitled as well. Authorities such as the President can lodge for a prior review of the constitutionality of certain rules. Court has certiorari. | Concrete and abstract. In concrete judicial cases it is up to the Constitutional Court to control the process of selection of the cases it admits. For abstract, the Constitutional Court declares the unconstitutionality of rules that the Constitutional Court has already deemed unconstitutional in three specific cases. | In concrete control proceedings (90% of case docket) effects are produced inter partes. If the court has decided 3 times on the same issue, the provision can be eliminated by activating an abstract control. However, abstract control, not exactly strikes down but "returns" the statute or treaty to the body that passed it. The parliament may expunge the rule or pass it by a qualified majority. |
| Spain | Constitutional Court. | 12 judges. 4 proposed by congress, 4 by senate, 2 by the government and 2 proposed by the Judicial Council. The king appoints the president by proposal of the tribunal as a whole. Non-renewable term of 9 years. Legal background of 15-year. | Abstract judicial review of laws at the request of the authorities, parliament and regional assemblies. Amparo is open to citizens after exhausting all ordinary court remedies, and to cases where the applicant demonstrates the case would hold 'special constitution significance' | Concrete and abstract. Amparo for the protection of fundamental rights against any exercise of public power, including parliamentary decisions other than laws. Must first exhaust ordinary remedies. Abstract judicial review and preventive review of international treaties prior to their ratification, and preventive review of drafts of statutes of autonomy prior to being object to a referendum and their promulgation. | In general, the filing of an amparo appeal does not suspend the effects of the contested act or decision, but the Court, may order its total or partial suspension. |
| Switzerland | Federal Supreme Court. Absence of any judicial review of constitutionality of federal laws. Can examine the constitutionality of cantonal laws and ordinances. | 38 judges. Its work is organised by domains (social law, public law, civil law, criminal law). Judges are elected on partisan base, no specific training required but usually lawyers, judges or university professors. | Normally a wide standing, as in ordinary cases, but cantons can also trigger abstract constitutional review. The constitutional review is not only concentrated in the hands of the Federal Supreme Court but also decentralised. The question of constitutionality may be raised at any stage when applying the legal rules and before any authority. | Concrete and abstract. A concrete constitutional review of federal legal acts is undertaken only when they are applied. For abstract, Cantons can appeal to the Federal Supreme Court by claiming that a non-statutory act violates the Federal Constitution, and the division of powers between the Confederation and the cantons. Through this form cantons trigger an abstract constitutional review of federal acts by the Federal Court. | Abstract control generally does not prevent the entry into force of the norm. |

Table A A.5. Comparative tables on Fiscal Governance

| Scope of the budget and call for special budget laws | | | |
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| Country | Scope of the budget | Special budget laws called in constitution | |
| Australia | "The proposed law which appropriates revenue or money for the ordinary annual services of the Government shall deal only with such appropriation" (Article 54) | Not mentioned in Constitution | |
| Finland | Not mentioned in Constitution | Not mentioned in Constitution | |
| France | Not mentioned in Constitution | "Parliament shall pass Finance Bills in the manner provided for by an Institutional Act." (Article 47) "Finance Acts shall determine the revenue and expenditure of the State in the conditions and with the reservations provided for by an Institutional Act." (Article 34) | |
| Germany | "All revenues and expenditures of the Federation shall be included in the budget; in the case of federal enterprises and special trusts, only payments to or remittances from them need be included". (Article 110) | Not mentioned in Constitution | |
| Netherlands | Not mentioned in Constitution | Not mentioned in Constitution | |
| New Zealand | Not mentioned in Constitution | Not mentioned in Constitution | |
| Poland | | "The Sejm shall adopt the State budget for a fiscal year by means of a Budget. The principles of and procedure for preparation of a draft State Budget, the level of its detail and the requirements for a draft State Budget, as well as the principles of and procedure for implementation of the Budget, shall be specified by statute." (Article 219) | |
| Portugal | "The State Budget shall contain: a breakdown of the state's income and expenditure, including that of autonomous funds and departments; and the social security budget" (Article 105) | "The Budget Law shall be drawn up, organised, put to the vote and implemented in accordance with the applicable framework law, which shall include the rules governing the drawing up and implementation of the budgets of autonomous funds and departments. The Budget bill shall be presented and put to the vote within such time limits as the law may set, and the law shall lay down the procedures to be adopted when such time limits cannot be met." (Article 106) | |
| Spain | "The State Budget shall be drafted annually and shall include the entire expenditure and income of the State public sector and specific mention shall be made to the amount of the fiscal benefits affecting State taxes" (Section 134) | Not mentioned in Constitution | |
| Switzerland | Not mentioned in Constitution | Not mentioned in Constitution | |
| Budget form, procedures and fiscal frameworks | | | |
| Country | Budget process | Supplementary budget process | Resolution mechanisms |
| Australia | Not mentioned in Constitution | Not mentioned in Constitution | Not mentioned in Constitution |
| Finland | "The government proposal concerning the State budget and the other proposals pertaining to it shall be submitted to the Parliament well in advance of the next budgetary year" (Section 83) "Once the pertinent report of the Finance | "An extra-budgetary fund may be created by an Act, if the performance of a permanent duty of the State requires this in an essential manner. However, the decision of the Parliament to adopt a legislative proposal for the creation of an extra-budgetary fund or the extension of such a fund or its purpose must be | "If the publication of the State budget is delayed beyond the new budgetary year, the budget proposal of the Government shall be applied as a provisional budget in a manner decided by the Parliament." (Section 83) |

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| | Committee of the Parliament has been issued, the budget is adopted in a single reading in a plenary session of the Parliament" (Section 83) | supported by at least two thirds of the votes cast." (Section 87) "A proposal of the Government for a supplementary budget shall be submitted to the Parliament, if there is a justified reason for amending the budget. A Representative may submit budgetary motions for a budget amendment immediately linked to the supplementary budget." (Section 86) | |
| France | Not mentioned in Constitution | Not mentioned in Constitution | "Should the National Assembly fail to reach a decision on first reading within forty days following the tabling of a Bill, the Government shall refer the Bill to the Senate, which shall make its decision known within fifteen days. The procedure set out in article 45 shall then apply. Should Parliament fail to reach a decision within seventy days, the provisions of the Bill may be brought into force by Ordinance. Should the Finance Bill setting out revenue and expenditure for a financial year not be tabled in time for promulgation before the beginning of that year, the Government shall as a matter of urgency ask Parliament for authorisation to collect taxes and shall make available by decree the funds needed to meet commitments already voted for. The time limits set by this article shall be suspended when Parliament is not in session." (Article 47) "The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance Bill or Social Security Financing Bill an issue of a vote of confidence before the National Assembly." (Article 49) |
| Germany | "Bills to comply with the first sentence of paragraph (2) of this Article as well as bills to amend the Budget Law or the budget itself shall be submitted simultaneously to the Bundesrat and to the Bundestag; the Bundesrat shall be entitled to comment on such bills within six weeks or, in the case of amending bills, within three weeks." (Article 110) | Not mentioned in Constitution | "If, by the end of a fiscal year, the budget for the following year has not been adopted by a law, the Federal Government, until such law comes into force, may make all expenditures that are necessary: Budget bills to maintain institutions established by a law and to carry out measures authorised by a law; to meet the legal obligations of the Federation; to continue construction projects, procurements, and the provision of other benefits or services, or to continue to make grants for these purposes, to the extent that amounts have already been appropriated in the budget of a previous year. To the extent that revenues based upon specific laws and derived from taxes, or duties, or other sources, or the working capital reserves, do not cover the expenditures referred to in paragraph (1) of this Article, the Federal Government may borrow the funds necessary to sustain current operations up to a maximum of one quarter of the total amount of the previous budget." (Article 111) |
| Netherlands | Not mentioned in Constitution | Not mentioned in Constitution | Not mentioned in Constitution |
| New Zealand | Not mentioned in Constitution | Not mentioned in Constitution | Not mentioned in Constitution |
| Poland | "The right to introduce legislation concerning a Budget, an interim budget, amendments to the Budget, a statute on the contracting of public | "In exceptional cases, the revenues and expenditures of the State for a period shorter than one year may be specified in an interim budget. The provisions relating | "If a State Budget or an interim budget have not come into force on the day of commencement of a fiscal year, the Council of Ministers shall manage State |

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| | <p>debt, as well as a statute granting financial guarantees by the State, shall belong exclusively to the Council of Ministers." (Article 221)</p> <p>"The Council of Ministers shall submit to the Sejm (Parliament) a draft Budget for the next year no later than 3 months before the commencement of the fiscal year. In exceptional instances, the draft may be submitted later." (Article 222)</p> <p>"The Senate may, within the 20 days following receipt of the Budget, adopt amendments thereto." (Article 223)</p> <p>"The President of the Republic shall sign the Budget or interim Budget submitted to him by the Marshal of the Sejm within 7 days of receipt thereof, and order its promulgation in the Journal of Laws of the Republic of Poland" (Article 224)</p> | <p>to a draft State Budget shall apply, as appropriate, to a draft interim budget." (Article 219)</p> | <p>finances pursuant to the draft Budget." (Article 219)</p> <p>"If, after 4 months from the day of submission of a draft Budget to the Sejm (Parliament), it has not been adopted or presented to the President of the Republic for signature, the President of the Republic may, within the following of 14 days, order the shortening of the Sejm's term of office." (Article 225)</p> |
| Portugal | Not mentioned in Constitution | Not mentioned in Constitution | Not mentioned in Constitution |
| Spain | The Government must submit the draft State Budget to the Congress at least three months before the expiration of that of the previous year" (Section 134) | "Once the Budget Bill has been adopted, the Government may submit bills involving increases in public expenditure or decreases in the revenue corresponding to the same financial year" (Section 134) | "If the Budget Bill is not passed before the first day of the corresponding financial year, the Budget of the previous financial year shall be automatically extended until the new one is approved" (Section 134) |
| Switzerland | Not mentioned in Constitution | Not mentioned in Constitution | Not mentioned in Constitution |

Budget transparency and resolution mechanisms

| Country | Budget transparency | Resolution mechanisms |
|-----------|--|---|
| Australia | Not mentioned in Constitution | Not mentioned in Constitution |
| Finland | "Estimates of the annual revenues and appropriations for the annual expenditures of the State, the reasons for the appropriations and other justifications of the budget shall be included in the State budget. It may be provided by an Act that, for certain revenues and expenditures immediately linked one to another, a revenue forecast or appropriation corresponding to their difference may be included in the budget. The revenue forecasts in the budget shall cover the appropriations included in it. When covering the appropriations, the surplus or deficit in the State's final accounts may be taken into account, as provided by an Act. The revenue forecasts or appropriations pertaining to linked revenues and | "If the publication of the State budget is delayed beyond the new budgetary year, the budget proposal of the Government shall be applied as a provisional budget in a manner decided by the Parliament." (Section 83) |

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| | <p>expenditures may be included in the budget for several budgetary years, as provided by an Act. The general principles on the functions and finances of state enterprises are laid down by an Act. As regards state enterprises, revenue forecasts or appropriations are taken into the budget only in so far as they are provided by an Act. When considering the budget, the Parliament approves the most important service objectives and other objectives of state enterprises." (Section 84)</p> <p>"The Budget shall be a single budget and shall set out expenditure in accordance with the organisational and functional classification thereof, in such a way as to preclude the existence of secret appropriations and funds." (Article 105)</p> | |
| France | Not mentioned in Constitution | <p>"Should the National Assembly fail to reach a decision on first reading within forty days following the tabling of a Bill, the Government shall refer the Bill to the Senate, which shall make its decision known within fifteen days. The procedure set out in article 45 shall then apply. Should Parliament fail to reach a decision within seventy days, the provisions of the Bill may be brought into force by Ordinance. Should the Finance Bill setting out revenue and expenditure for a financial year not be tabled in time for promulgation before the beginning of that year, the Government shall as a matter of urgency ask Parliament for authorisation to collect taxes and shall make available by decree the funds needed to meet commitments already voted for. The time limits set by this article shall be suspended when Parliament is not in session." (Article 47)</p> <p>"The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance Bill or Social Security Financing Bill an issue of a vote of confidence before the National Assembly." (Article 49)</p> |
| Germany | <p>"For the purpose of discharging the Federal Government, the Federal Minister of Finance shall submit annually to the Bundestag and to the Bundesrat an account of all revenues and expenditures as well as of assets and debts during the preceding fiscal year." (Article 114)</p> | <p>"If, by the end of a fiscal year, the budget for the following year has not been adopted by a law, the Federal Government, until such law comes into force, may make all expenditures that are necessary: Budget bills to maintain institutions established by a law and to carry out measures authorised by a law; to meet the legal obligations of the Federation; to continue construction projects, procurements, and the provision of other benefits or services, or to continue to make grants for these purposes, to the extent that amounts have already been appropriated in the budget of a previous year. To the extent that revenues based upon specific laws and derived from taxes, or duties, or other sources, or the working capital reserves, do not cover the expenditures referred to in paragraph (1) of this Article, the Federal Government may borrow the funds necessary to sustain current operations up to a maximum of one quarter of the total amount of the previous budget." (Article 111)</p> |
| Netherlands | <p>"The estimates of the State's revenues and expenditures shall be laid down by Act of Parliament." Article 105</p> <p>"A statement of the State's revenues and expenditures shall be presented to the States General in accordance with the provisions of the relevant Act of Parliament. The balance sheet approved by the Court of Audit shall be presented to the States General." Article 105</p> | Not mentioned in Constitution |
| New Zealand | Not mentioned in Constitution | Not mentioned in Constitution |
| Poland | "The Council of Ministers, within the 5-month period following the end of the fiscal year, shall present to the Sejm a report on the implementation of | "If a State Budget or an interim budget have not come into force on the day of commencement of a fiscal year, the Council of Ministers shall manage State finances pursuant to the draft Budget." (Article 219) |

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| | the Budget together with information on the condition of the State debt." (Article 226) | "If, after 4 months from the day of submission of a draft Budget to the Sejm (Parliament), it has not been adopted or presented to the President of the Republic for signature, the President of the Republic may, within the following of 14 days, order the shortening of the Sejm's term of office." (Article 225) |
| Portugal | "The Budget bill shall be accompanied by reports on a forecast of the evolution of the main macroeconomic indicators that have an influence on the Budget, as well as the evolution of the money supply and the sources thereof; The grounds for variations in the income and expenditure forecasts compared to the previous Budget; The public debt, treasury operations and the Treasury accounts; The situation of autonomous funds and departments; Transfers of funds to the autonomous regions and local authorities; Such financial transfers between Portugal and other countries as affect the proposed Budget; Fiscal benefits and an estimate of the ensuing reduction in income." Article 106 | Not mentioned in Constitution |
| Spain | Not mentioned in Constitution | "If the Budget Bill is not passed before the first day of the corresponding financial year, the Budget of the previous financial year shall be automatically extended until the new one is approved" (Section 134) |
| Switzerland | Not mentioned in Constitution | Not mentioned in Constitution |

Fiscal rules

| Country | Fiscal rules | Escape clauses |
|-------------|--|--|
| Australia | Not mentioned in constitution | Not mentioned in constitution |
| Finland | Not mentioned in constitution | Not mentioned in constitution |
| France | Not mentioned in constitution | Not mentioned in constitution |
| Germany | "The budgets of the Federation and the Länder shall in principle be balanced without revenue from credits." Article 109 Revenues and expenditures shall in principle be balanced without revenue from credits. This principle shall be satisfied when revenue obtained by the borrowing of funds does not exceed 0.35 percent in relation to the nominal gross domestic product [...] Deviations of actual borrowing from the credit limits specified under the first to third sentences are to be recorded on a control account; debits exceeding the threshold of 1.5 percent in relation to the nominal gross domestic product are to be reduced in accordance with the economic cycle." Article 115 | "The Federation and Länder may introduce rules intended to take into account, symmetrically in times of upswing and downswing, the effects of market developments that deviate from normal conditions, as well as exceptions for natural disasters or unusual emergency situations beyond governmental control and substantially harmful to the state's financial capacity." Article 109 |
| Netherlands | Not mentioned in constitution | Not mentioned in constitution |
| New Zealand | Not mentioned in constitution | Not mentioned in constitution |
| Poland | "It shall be neither permissible to contract loans nor provide guarantees and financial sureties which would engender a national public debt exceeding three-fifths of the value of the annual gross domestic product. The method for calculating the value of the annual gross domestic product and national public debt shall be specified by statute." Article 216 | Not mentioned in constitution |

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| | "The Budget shall not provide for covering a budget deficit by way of contracting credit obligations to the State's central bank." Article 220 | |
| Portugal | Not mentioned in constitution | Not mentioned in constitution |
| Spain | "All public administrations will conform to the principle of budgetary stability" (Section 135) "The State and the Self-governing Communities may not incur a structural deficit that exceeds the limits established by the European Union for their member states. An Organic Act shall determine the maximum structural deficit the State and the Self-governing Communities may have, in relation to its gross domestic product. Local authorities must submit a balanced budget" (Section 135) | "The limits of the structural deficit and public debt volume may be exceeded only in case of natural disasters, economic recession or extraordinary emergency situations that are beyond the control of the State and significantly impair either the financial situation or the economic or social sustainability of the State, as appreciated by an absolute majority of the members of the Congress of Deputies" (Section 135) |
| Switzerland | "The Confederation shall maintain its income and expenditure in balance over time. [...] If the total expenditure in the federal accounts exceeds the ceiling in terms of paragraphs 2 or 3, compensation for this additional expenditure must be made in subsequent years." Article 126 | "Exceptional financial requirements may justify an appropriate increase in the ceiling in terms of paragraph 2. The Federal Assembly shall decide on any increase in accordance with Article 159 paragraph 3 letter c." Article 126 |

Role of the legislature

| Country | Capacity of Parliaments to amend the budget | Tax authorisation | Distinctions between the two chambers |
|-----------|--|--|---------------------------------------|
| Australia | Not mentioned in constitution. | "No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law." (Chap IV Art. 83) | Not mentioned in constitution. |
| Finland | Not mentioned in constitution. | "The state tax is governed by an Act, which shall contain provisions on the grounds for tax liability and the amount of the tax, as well as on the legal remedies available to the persons or entities liable to taxation." Section 81 | Not mentioned in constitution. |
| France | "Private Members' Bills and amendments introduced by Members of Parliament shall not be admissible where their enactment would result in either a diminution of public revenue or the creation or increase of any public expenditure." Article 40 | Not mentioned in constitution. | Not mentioned in constitution. |
| Germany | "Laws that increase the budget expenditures proposed by the Federal Government, or entail or will bring about new expenditures, shall require the consent of the Federal Government. This requirement shall also apply to laws that entail or will bring about decreases in revenue. The Federal Government may demand that the Bundestag postpone its vote on bills to this effect. In this event the Federal Government shall submit its comments to the Bundestag | "Federal laws relating to taxes the revenue from which accrues wholly or in part to the Länder or to municipalities (associations of municipalities) shall require the consent of the Bundesrat." Article 105 | Not mentioned in constitution. |

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| | within six weeks." Article 113 | | |
| Netherlands | Not mentioned in constitution. | "Taxes imposed by the State shall be levied pursuant to Act of Parliament. Other levies imposed by the State shall be regulated by Act of Parliament." Article 104 | Not mentioned in constitution. |
| New Zealand | Not mentioned in constitution. | Not mentioned in constitution. | Not mentioned in constitution. |
| Poland | "The increase in spending or the reduction in revenues from those planned by the Council of Ministers may not lead to the adoption by the Sejm of a budget deficit exceeding the level provided in the draft Budget." Article 220 | Not mentioned in constitution. | Not mentioned in constitution. |
| Portugal | "No Member, parliamentary group, Legislative Assembly of an autonomous region or group of registered electors shall submit bills or draft amendments which, during the then current financial year, involve an increase in the state's expenditure or a decrease in its revenues as set out in the Budget." Article 167 | The Constitution of the Portuguese Republic prescribes that the Assembly of the Republic "shall possess exclusive responsibility to legislate on the following matters: The creation of taxes and the fiscal system, and the general rules governing duties and other financial payments to public bodies." Article 165 | Not mentioned in constitution. |
| Spain | "Any non-governmental bill or amendment which involves an increase in appropriations or a decrease in budget revenue shall require previous approval by the Government before its passage" (Section 134) | Not mentioned in constitution. | Not mentioned in constitution. |
| Switzerland | Not mentioned in constitution. | Not mentioned in constitution. | The Federal Assembly determines the expenditure of the Confederation, adopts the budget and approve the federal accounts." Article 167 |

Research support and independent monitoring and auditing bodies

| Country | Independent Fiscal Institutions | Supreme Audit Institutions |
|-----------|---------------------------------|--|
| Australia | Not mentioned in constitution | Not mentioned in constitution |
| Finland | Not mentioned in constitution | "For the purpose of auditing State finances and compliance with the State budget, there shall be an independent National Audit Office in connection with the Parliament. More detailed provisions on the status and duties of the National Audit Office are laid down by an Act. [...] The Parliament supervises State finances and compliance with the State budget. For this purpose, the Parliament shall have an Audit Committee. The Audit Committee shall report any significant supervisory findings to the Parliament." Section 90 |
| France | Not mentioned in constitution | "The <i>Cour des Comptes</i> shall assist Parliament in monitoring Government action. It shall assist Parliament and the Government in monitoring the implementation of Finance Acts and Social Security Financing Acts, as well in assessing public policies. By means of its public reports, it shall contribute to informing citizens." Article 47-2 |
| Germany | Not mentioned in constitution | "The Federal Court of Audit, whose members shall enjoy judicial independence, |

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| | | shall audit the account and determine whether public finances have been properly and efficiently administered. It shall submit an annual report directly to the Bundestag and the Bundesrat as well as to the Federal Government. In other respects the powers of the Federal Court of Audit shall be regulated by a federal law." Article 114 |
| Netherlands | Not mentioned in constitution | "The Court of Audit (Algemene Rekenkamer) shall be responsible for examining the State's revenues and expenditures." Article 76 |
| New Zealand | Not mentioned in constitution | Not mentioned in constitution |
| Poland | Not mentioned in constitution | Not mentioned in constitution |
| Portugal | Not mentioned in constitution | "The Budget's execution shall be scrutinised by the Audit Court and the Assembly of the Republic. Following receipt of an opinion to be issued by the Audit Court, the Assembly of the Republic shall consider the General State Accounts, including the social security accounts, and shall put them to the vote." Article 107 |
| Spain | Not mentioned in constitution | "The Auditing Court is the supreme body charged with auditing the State's accounts and financial management, as well as those of the public sector. It shall be directly accountable to the Cortes Generales (Parliament)". Section 136 of the Constitution describes the functions of the Auditing Court and specifies the process for submission of the accounts and selection of members of the Auditing Court. |
| Switzerland | Not mentioned in constitution | Not mentioned in constitution |

Table A A.6. Comparative perspective of provisions relating to the central bank independence

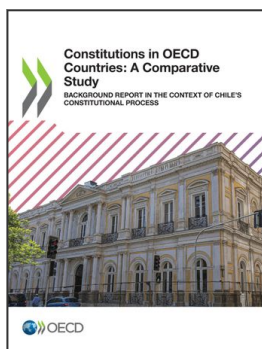
| Country | Constitutional/Treaty Provisions | Key provisions of primary legislation |
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| Australia | Not present. | Sections 11(2) and 13 of the <i>Reserve Bank Act</i> underline the importance to establish a dispute resolution procedure and a close liaison between the Reserve Bank of Australia and the Government: In the event of a difference of opinion between the Government and the Board about whether a policy determined by the Board is directed to the greatest advantage of the people of Australia, the Treasurer and the Board shall endeavour to reach agreement (Section 11(2)). The Governor and the Secretary to the Department of the Treasury shall establish a close liaison with each other and shall keep each other fully informed on all matters which jointly concern the Bank and the Department of the Treasury (Section 13). In addition, the <i>Statement on the Conduct of Monetary Policy</i> ensures the independence of the Reserve Bank, along with the Reserve Bank Act. The Governor and the members of the Reserve Bank Board are appointed by the Government of the day, but are afforded |

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| | | substantial independence under the Reserve Bank Act to conduct the monetary and banking policies of the Bank, so as to best achieve the objectives of the Bank as set out in the Act. The Government recognises and will continue to respect the Reserve Bank's independence, as provided by the Act. |
| Brazil | Articles 52 and 84 of the <i>Constitution of the Federative Republic of Brazil</i> statute the appointment process which requires a parliamentary approval: The Federal Senate has the exclusive competence to give prior consent on the selection of president and directors of the Central Bank (Article 52). The president of the Republic shall have the exclusive power to appoint, after approval by the Senate, the president and the directors of the Central Bank (Article 84). Article 164 statutes the exclusive right to issue currency and the prohibition to finance government. The competence to issue currency shall be exercised exclusively by the central bank. It is forbidden for the central bank to grant loans to the National Treasury and to any body or agency which is not a financial institution. | Article 8 of the <i>Law No. 4.595</i> admits a "semiautonomy" to the central bank. The current Superintendency of Currency and Credit is transformed into a semiautonomous federal agency denominated the Central Bank of the Republic of Brazil. Article 1 of the <i>Decreto No. 91.961</i> endows the President with the authority to dismiss board members of the central bank solely. |
| Costa Rica | Articles 188 and 189 of the <i>Costa Rica's Constitution</i> mentions the autonomy of the central bank to a certain extent. The autonomous institutions of the State, including the central bank, enjoy administrative independence and are subject to the law in matter of government. | Articles 1 and 17(a) of the <i>Organic Law of the Central Bank of Costa Rica</i> statutes the central bank independence in clearer language. According to the law, the Central Bank of Costa Rica is an autonomous institution under public law, with its own legal personality and assets, and the President of the Bank shall enjoy independence in the exercise of his or her powers. Article 59(a) prohibits the Bank to grant financing to the government or public institutions. |
| Euro area | Although there is no consolidated constitution in the euro area, the <i>Treaty on the Functioning of the European Union</i> (TFEU) is considered as the supreme source of law. Some provisions in TFEU ensure the independence of central banks in the euro area. For example, Article 123(1) prohibits the ECB or national central banks to provide credit facility or purchase debt instruments directly from the governing bodies. Article 130 prohibit the ECB or national central banks to seek or take instructions from the governing bodies. Article 282(3) gives the ECB the power to issue euros and the independence to exercise that power and control its finances. | Article 7 of the <i>Statute of the European System of Central Banks and of the European Central Bank</i> articulates that neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from governing bodies. Also, those governing bodies shall not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks. |
| India | Not present. | Articles of the <i>Reserve Bank of India Act</i> statute that the Central Government has strong power to control the Reserve Bank of India. The Central Government may from time to time give directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest (Article 7(1)). The Central Government may remove from office the Governor, or a Deputy Governor or any other Director or any member of a Local Board. (Article 11(1)). In the event of the failure of the Bank to carry out any of its obligations, the general superintendence and direction of the affairs shall be entrusted to an agency to be determined by the Central Government, which may exercise the powers and do all acts and things as the Central Board may exercise (Article 30(1)). |
| Mexico | Article 28 of the <i>Political Constitution of the United Mexican States</i> guarantees various degrees of autonomy for the central bank. The central bank shall be autonomous in the exercise of its functions and its administration. No authority can order the central bank to | Article 1 of the <i>Bank of Mexico Law</i> stipulates that the central bank shall be a legal entity subject to public law, autonomous in nature, and shall be named Banco de México. |

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| | provide financing. The central bank carries out exclusively in the strategic areas of coining and note printing. The management of the central bank shall be entrusted to the persons appointed by the President of the Republic with the consent of the Senate or the Permanent Committee. They shall hold office for the terms which duration and staggered sequences are best suited to the autonomous exercise of their duties; they may only be removed for a serious cause. | |
| New Zealand | Not present. | <p>Articles 8 and 10 of the <i>Reserve Bank of New Zealand Act</i> statute the procedure to formulate monetary policy: The Bank, acting through the MPC, has the function of formulating a monetary policy directed to the economic objectives. The function includes deciding the approach by which the operational objectives set out in a remit are intended to be achieved (Article 8). The Minister must, after having regard to remit advice, issue a remit for the MPC. The remit must set out operational objectives for carrying out the function of formulating monetary policy (Article 10).</p> <p>Article 49(1) admits that the Governor-General may, by Order in Council, on the advice of the Minister, remove the Governor from office.</p> <p>In addition, the <i>Policy Targets Agreement</i>, an extra-statutory statement regarding monetary policy, must be agreed between the Governor and the Minister of Finance. It is consistent with the legal objective, although the Minister has the power to override that objective temporarily but publicly.</p> |
| Poland | Article 227 of the <i>Constitution of the Republic of Poland</i> gives the National Bank of Poland a strong position among public institutions and specified the responsibility of the Monetary Policy Council. The Bank shall have the exclusive right to issue money as well as to formulate and implement monetary policy. The Bank shall be responsible for the value of Polish currency. The Sejm, on request of the President of the Republic, shall appoint the President of the Bank for a period of 6 years. The organisation and principles of activity of the Bank, as well as detailed principles for the appointment and dismissal of its organs, shall be specified by statute. | Article 9 of the <i>Act on Narodowy Bank Polski</i> elaborates on some provisions of the Constitution. The President of the Bank shall be appointed and dismissed by the Sejm, at the request of the President of the Republic of Poland. The President of the Bank may be dismissed if: 1) he/she has been unable to fulfil his/her duties due to prolonged illness, 2) he/she has been convicted of committing a criminal offence under a legally binding court sentence, 2a) he/she has submitted a vetting statement deemed false by court in a binding ruling, 3) the Tribunal of State has prohibited him/her from occupying managerial positions or holding posts of particular responsibility in state bodies. |
| Sweden | Article 13 of Chapter 9 of the <i>Constitution of Sweden</i> (Basic Laws of Sweden) refers to the legal foundation of the Riksbank. The Riksbank is the central bank of the Realm and an authority under the Riksdag. No public authority may determine how the Riksbank shall decide in matters of monetary policy. The Riksbank has a General Council comprising eleven members, who are elected by the Riksdag. The Riksbank is under the direction of an Executive Board appointed by the General Council. The General Council may only dismiss a member of the Executive Board if he or she no longer fulfils the requirements laid down for the performance of his or her duties, or is guilty of gross negligence. | Article 2 of Chapter 3 of the <i>Sveriges Riksbank Act</i> ensures that the Members of the Executive Board may neither seek nor take instructions when fulfilling their monetary policy duties. |
| Switzerland | Article 99 of the <i>Federal Constitution of the Swiss Confederation</i> embodies that the Swiss National Bank shall follow a monetary policy which serves the general interest of the country; it shall be administered with the cooperation and under the supervision of the Confederation. | The <i>Federal Act on the Swiss National Bank</i> sets out in detail the Bank's constitutional mandate and independence, as well as its accountability and information obligation towards the Federal Council, Parliament and the public. Federal Act on the Swiss National Bank. The Bank shall pursue a monetary policy serving the interests of the country as a whole. It shall ensure price stability. In so doing, it shall take due account of the development of the |

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| | | economy (Article 5). In fulfilling its monetary tasks, the Bank and the members of the Bank's bodies shall not be permitted to seek or accept instructions either from the Federal Council or from the Federal Assembly or any other body (Article 6). |
| Turkey | Not present. | <p>The <i>Law on the Central Bank of the Republic of Turkey</i> ensures that the Central Bank of Turkey has been vested the independence. The Bank shall enjoy absolute autonomy in exercising the powers and carrying out the duties granted by this Law under its own responsibility (Article 4 III). The Governor may, in the case of his/her dissent from the decisions of the Board, postpone the execution of the decision and may demand it be reconsidered at the next meeting. In urgent circumstances, the Board shall convene upon the call of the Governor and reconsider the issue in dispute. In the event of a disagreement between the Governor and the Board, the President of the Republic shall act as an arbitrator (Article 26).</p> <p>A recent legislative change based on the Statutory Decree allows the government to shorten the tenure of the central bank governor (OECD, 2021).</p> |
| United States | Not present. | <p>The <i>Federal Reserve Act</i> provides comprehensive provisions, including regarding the purposes, structure, and functions of the system as well as its operations and accountability. Section 10(2) of the act states the appointment procedures of the Board members in details. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision (Section 10(2)).</p> |

Source: Constitutions/TFEU, central bank laws and websites of benchmark jurisdictions.



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