

Contribution to the course  
HUKUM KELEMBAGAAN NEGARA

## Contents

**Preliminary remark:** At the Faculty of Law of Universitas Gadjah Mada the courses are shared by several lecturers. This table informs about my lectures on 18.02., 25.02., 04.03. and 11.03.2025. They complement those of my colleague *Dr. Andy Omara* from the perspective of comparison of laws with a special focus on constitutional law in Europe.

### § 1 Introduction

- I. Why studying constitutional law with a comparative approach?
- II. Why studying European constitutionalism?
- III. Why studying the law of state institutions with a comparative approach?

## Part I: Introduction to constitutionalism in Europe

### § 2 Basics of constitutionalism

- I. Concept and types of constitution
- II. The constitution as a legal institution
- III. The pouvoir constituent (constituent power)
- IV. The constitution as binding law
- V. Constitutional interpretation
- VI. Milestones in constitutional history

### § 3 The European free and democratic constitutional state (1): fundamental constitutional decisions

- I. Significance and kinds of fundamental constitutional decisions
- II. Fundamental constitutional decisions as implementation of the common European fundamental values
- III. The commitment to human dignity and human rights
- IV. The principle of democracy
- V. The principle of the rule of law
- VI. The principle of separation of powers
- VII. The principle of solidarity, social justice and cohesion
- VIII. Outlook: towards the downfall of free and democratic constitutionalism in Europe?

### § 4 The European free and democratic constitutional state (2): fundamental rights

- I. The parallelism of pan-European, European Union, national and sub-national human and fundamental rights regimes in Europe
- II. The importance of the jurisprudence of the European Court of Human Rights and the national constitutional courts for the development of fundamental rights doctrine in Europe
- III. Elements of general fundamental rights doctrine (overview)

## **Part II: Legal aspects of the state institutions in parliamentary, presidential and semi-presidential governing systems**

### **§ 5 The distinction between parliamentary, presidential and semi-presidential (hybrid) governing systems**

- I. A common distinction in political science and comparative constitutional law doctrine
- II. Categorical differences between the three types of governing systems
- III. Limits to the differences set by the fundamental principle of separation of powers
- IV. Limits to the significance of the distinction set by the uniqueness of each constitutional system
- V. In particular: the constitutional court as the final arbiter in *any* type of governing system

### **§ 6 Selected classical questions of executive-legislative relations in the three different types of governing systems**

- I. Who is and who determines the head of the executive branch?
- II. How can the head of the executive branch be removed and under which conditions?
- III. Who can dissolve the parliament and under which conditions?
- IV. Are there limits to the legislative power?
- V. Does the president have a (political) veto power against legislation?  
How can a veto be overridden?
- VI. What is the role of the political parties within the institutional system?

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