

# Table of Contents

The Authors	3
Acknowledgements	17
List of Abbreviations	19
Glossary	21
Note	25
General Introduction	27
§1. FORM OF GOVERNMENT	27
I. Democracy	27
II. Representative Democracy	28
III. Presidential Democracy	28
IV. Parliamentary Democracy	29
V. The Separation of Powers	30
VI. The Rule of Law	31
VII. The Principle of the Welfare State	31
§2. STATE TERRITORY	32
§3. POPULATION	32
Part I. Constitutional History, Sources of Constitutional Law, Codification and Interpretation	33
Chapter 1. An Outline of Constitutional History	33
§1. THE PERIOD OF THE STRUGGLE FOR INDEPENDENCE (1821–1833): THE FIRST GREEK REPUBLIC	34
I. Local Constitutions	34
II. The Constitution of Epidaurus of 1822	34
III. The Constitution of Astros (Law of Epidaurus) of 1823	34

## Table of Contents

IV. The 'Political Constitution of Greece' (1827, Constitution of Troizina)	35
V. Kapodistrias' Authoritarian Regime	35
VI. The 'Hegemonic' Constitution of 1832	36
§2. THE PERIOD OF ABSOLUTE MONARCHY (1833–1843)	36
§3. THE PERIOD OF CONSTITUTIONAL MONARCHY (1843–1862) AND THE CONSTITUTION OF 1844	37
§4. THE FIRST PERIOD OF PARLIAMENTARY MONARCHY (1862–1924)	38
I. The Election of King George and the Constitution of 1864	38
II. The Revolt of 1909, the 'Revision' of the Constitution in 1911 and the 'National Schism'	39
§5. THE SECOND REPUBLIC (1924–1935) AND THE CONSTITUTION OF 1927	42
§6. THE FIRST PERIOD OF AUTHORITARIAN REGIMES (1935–1946)	43
§7. THE SECOND PERIOD OF PARLIAMENTARY MONARCHY (1946–1967) AND THE CONSTITUTION OF 1952	45
§8. THE SECOND PERIOD OF AUTHORITARIAN REGIMES (1967–1974)	46
§9. THE THIRD REPUBLIC (1974–PRESENT)	47
I. The Constitution of 1975	47
II. The Constitutional Revision of 1986	48
III. The Revision of 2001	49
IV. The Revision of 2008	50
Chapter 2. Sources of Constitutional Law	51
§1. THE CONSTITUTION	52
I. Hierarchy	52
II. Revision of the Constitution	53
§2. CONSTITUENT ACTS OF THE EXECUTIVE AND RESOLUTIONS OF PARLIAMENT EQUIVALENT TO THE CONSTITUTION	53
§3. UNWRITTEN LAW	54
I. Constitutional Customs	54
II. Conventions of the Constitution	55
III. General Principles of Law	56
§4. STATUTES	56
I. Legislative Procedure	56
II. Force of Statutes: Retroactive Force of Statutes	59

## Table of Contents

III. Types of Statutes	60
§5. THE STANDING ORDERS (REGULATIONS OF PARLIAMENT)	61
§6. ADMINISTRATIVE REGULATIONS	62
I. Presidential Decrees	63
II. Regulations of other Administrative Agencies	64
III. Publication and Validity	65
§7. ACTS WITH A LEGISLATIVE CONTENT	65
§8. LEGISLATIVE DECREES, EMERGENCY LAWS, ARBITRARY REGULATORY ADMINISTRATIVE ACTS	67
§9. CASE LAW	67
§10. INTERNATIONAL LAW	68
§11. EUROPEAN LAW	69
Chapter 3. Codification and Interpretation of Legal Rules	70
§1. CODIFICATION	70
§2. INTERPRETATION	70
I. Interpretation in general	70
II. Interpretation of the Constitution	71
III. Authoritative Interpretation of Laws	71
Part II. The Head of State	73
Chapter 1. Election and Substitution	74
§1. ELECTION	74
I. Eligibility	74
II. Procedure	74
III. Tenure	76
§2. SUBSTITUTION	76
Chapter 2. Legal Status	78
§1. GENERAL	78
§2. INCOMPATIBILITIES	78

## Table of Contents

Chapter 3. Competence	80
§1. THE PRINCIPLE OF SPECIFIC COMPETENCE	80
§2. LEGISLATIVE COMPETENCES	80
§3. ADMINISTRATIVE COMPETENCES	81
§4. 'REGULATORY' COMPETENCES	81
§5. COMPETENCES OF THE PRESIDENT OF THE REPUBLIC RELATED TO HIS INTERNATIONAL ROLE	82
§6. JUDICIAL COMPETENCES	82
Chapter 4. Responsibility	83
§1. GENERAL	83
§2. KINDS OF RESPONSIBILITY	83
§3. RESPONSIBILITY FOR HIGH TREASON	83
§4. CRIMINAL PROCEDURE	84
Part III. Parliament	85
Chapter 1. The Organ of State	86
§1. MONO-CAMERAL SYSTEM	86
§2. NUMBER AND CLASSIFICATION OF MEMBERS OF PARLIAMENT	86
§3. ELECTIONS	87
I. The Electoral Body	87
II. Constitutional Principles	87
III. Electoral System	88
IV. Electoral Process	89
V. Eligibility	90
Chapter 2. Legal Status	93
§1. MANDATE OF THE MEMBERS OF PARLIAMENT	93
I. Term of Mandate	93
II. Free (Representative) Mandate	93

## Table of Contents

§2. INCOMPATIBILITIES, IMMUNITIES AND PRIVILEGES	94
I. Incompatibilities	94
II. Immunities	95
III. Indemnity and Benefits	97
Chapter 3. Competence	98
§1. LEGISLATION	98
§2. PARLIAMENTARY CONTROL OVER THE EXECUTIVE	98
I. Petitions	98
II. Applications for Presentation of Documents	98
III. Summoning of Ministers	99
IV. Questions	99
V. Interpellations	99
VI. Government Announcements and Statements	100
VII. Debates held at the Initiative of Members of Parliament	100
VIII. Debates with Priority over the Order of the Day	100
IX. Investigations	100
X. Vote of Confidence and Motion of Censure	101
§3. QUASI-JUDICIAL COMPETENCES	102
§4. ADMINISTRATIVE COMPETENCES	102
Chapter 4. Organization	104
§1. THE PRESIDING BODY AND THE CONFERENCE OF PARLIAMENTARY CHAIRMEN	104
I. The Presiding Body	104
II. The Conference of Parliamentary Chairmen	104
§2. THE PLENUM, THE RECESS SECTION, THE COMMITTEES, THE SCIENTIFIC SERVICE OF PARLIAMENT	105
I. The Plenum	105
II. The Recess Section	106
III. Parliamentary Committees	106
IV. The Scientific Service of Parliament	108
Chapter 5. Workings of Parliament	109
§1. PARLIAMENTARY TERM	109
§2. PARLIAMENTARY SESSIONS	109
§3. THE GENERAL PRINCIPLES OF PARLIAMENTARY PROCEEDINGS	110

## Table of Contents

I. Sittings	110
II. Legislative Proceedings	110
III. Other Proceedings	111
IV. Rules on Quorum and Majority	111
Chapter 6. The Dissolution of Parliament	113
Chapter 7. Political Parties, Lobbies and Interest Groups	115
Chapter 8. Referendum	117
Part IV. Public Administration	119
Chapter 1. The Government	120
§1. THE ORGAN OF STATE	120
I. Composition of the Government	120
II. Organization of the Government	120
III. Cabinet Formation Process	121
IV. Resignation of the Cabinet	123
§2. ELIGIBILITY, INCOMPATIBILITIES AND LEGAL STATUS	124
I. Eligibility	124
II. Incompatibilities	124
III. Legal Status	124
§3. COMPETENCE	125
I. Collective Competence of the Cabinet	125
II. Competences of the Prime Minister	126
III. Competences of the Ministers	126
§4. WORKINGS OF THE CABINET	127
§5. MINISTERIAL RESPONSIBILITY	127
I. Political Responsibility	128
II. Criminal Responsibility	128
III. Civil Liability	130
Chapter 2. Advisory and Supervisory Institutions	131
§1. ADVISORY AND SUPERVISORY TASKS OF JUDICIAL ORGANS	131
I. The Council of State	131
II. The Court of Audit	132
III. Other Courts of Justice	133

## Table of Contents

§2. THE LEGAL COUNCIL OF STATE	133
<b>Chapter 3. Constitutional Independent Authorities and other Independent Administrative Authorities</b>	<b>135</b>
§1. INDEPENDENT AUTHORITIES ENSHRINED IN THE CONSTITUTION	135
I. The Hellenic Data Protection Authority	136
II. The Greek National Council for Radio and Television	137
III. The Hellenic Authority for the Information and Communication Security and Privacy	138
IV. The Supreme Council for Personnel Recruitment	138
V. The Ombudsman	139
§2. INDEPENDENT ADMINISTRATIVE AUTHORITIES PROVIDED FOR IN VARIOUS LAWS BUT NOT ENSHRINED IN THE CONSTITUTION	140
<b>Chapter 4. Other Advisory Bodies in the Public Administration</b>	<b>141</b>
§1. THE ECONOMIC AND SOCIAL COMMITTEE	141
§2. THE NATIONAL COUNCIL OF FOREIGN POLICY	141
§3. NATIONAL COMMISSION FOR HUMAN RIGHTS	141
§4. THE CORPS OF INSPECTORS-AUDITORS OF PUBLIC ADMINISTRATION AND THE GENERAL INSPECTOR OF PUBLIC ADMINISTRATION	141
<b>Chapter 5. Decentralization</b>	<b>142</b>
§1. HISTORY AND GENERAL PRINCIPLES	142
§2. THE ADMINISTRATIVE ORGANIZATION UNDER THE PRINCIPLE OF DECENTRALIZATION	143
I. The Decentralized Administrations	143
II. The General Secretary of the Decentralized Administration	143
III. The Council of the Decentralized Administration	144
§3. OTHER REGIONAL ORGANS OF THE STATE	144
<b>Chapter 6. Local Government</b>	<b>145</b>
§1. HISTORY AND GENERAL PRINCIPLES	145
§2. FIRST-LEVEL LOCAL GOVERNMENT	147
I. The Concept of the Municipality	147
II. The Competences of the Municipalities	148

## Table of Contents

III. The Organization of the Municipalities	149
IV. The Election of Municipal Authorities	149
V. Supervision of Municipalities	150
VI. Municipal Legal Persons (Entities) and Enterprises	151
VII. Associations of Municipalities	152
§3. SECOND-LEVEL LOCAL GOVERNMENT	152
I. General	152
II. Competence	152
III. Organs of the Region	153
IV. Supervision of Regions	153
V. Legal Persons (Entities) and Enterprises of Regions	154
Chapter 7. Functional Self-Administration	155
§1. GENERAL	155
§2. DIFFERENT KINDS OF PUBLIC LEGAL PERSONS (ENTITIES)	155
§3. PUBLIC ENTERPRISES AND ORGANIZATIONS (DEKO)	156
§4. NATIONALIZATION, DE-NATIONALIZATION, PRIVATIZATION	156
§5. 'MIXED ECONOMY' ENTERPRISES	159
§6. CONCESSION OF A PUBLIC SERVICE	159
§7. PUBLIC-PRIVATE PARTNERSHIPS	160
§8. ECCLESIASTICAL LEGAL PERSONS (ENTITIES)	161
Chapter 8. The Principles of Action and Personnel of the Public Administration	162
§1. THE BASIC PRINCIPLES OF THE ORGANIZATION AND ACTIVITY OF THE ADMINISTRATION	162
I. The Basic Principles of Administrative Action	162
II. The Basic Principles of Organization and Operation of the Public Services	163
§2. THE PERSONNEL OF THE PUBLIC ADMINISTRATION	164
Chapter 9. Control of Administrative Action	166
§1. PARLIAMENTARY CONTROL	166



## Table of Contents

§2. ADMINISTRATIVE CONTROL	166
I. Hierarchical Control	166
II. Administrative Recourses	167
III. Administrative Supervision	167
§3. INTERMEDIATE CONTROL OF THE ADMINISTRATION	168
§4. JUDICIAL CONTROL	168
I. The Application for Annulment	168
II. Other Recourses before the Council of State	169
III. Recourses before the Court of Audit	170
IV. Recourses before the Ordinary Administrative Courts	170
Part V. The Judiciary	173
Chapter 1. Judicial Organization	173
§1. GENERAL	173
§2. THE BASIC PRINCIPLES OF JUDICIAL ORGANIZATION	173
§3. CATEGORIES OF COURTS	174
§4. CIVIL AND CRIMINAL COURTS	175
I. Ordinary Civil Courts	175
II. Criminal Courts	176
§5. ADMINISTRATIVE COURTS	177
I. The Council of State	177
II. Ordinary Administrative Courts	178
III. The Court of Audit	178
§6. OTHER COURTS	179
I. The Special Highest Court	179
II. The Special Court for 'Faulty Wrongful Judgment' and the Special Court for Disputes on Salaries of Judges	180
Chapter 2. Legal Status of Judges	182
§1. FUNCTIONAL AND PERSONAL INDEPENDENCE	182
I. Selection and Appointment	182
II. Appointment for Life	182
III. Changes of Post	183
IV. Remuneration	184
§2. INCOMPATIBILITIES	184

## Table of Contents

§3. RESPONSIBILITY	184
Chapter 3. Judicial Review of the Unconstitutionality of Laws	186
Part VI. Fundamental Rights and Freedoms	189
Chapter 1. General	189
§1. SOURCES	189
§2. CIVIL, POLITICAL AND SOCIAL RIGHTS: INSTITUTIONAL GUARANTEES	191
§3. THE BEARERS OF FUNDAMENTAL RIGHTS AND FREEDOMS	192
§4. THE BEARERS OF THE OBLIGATION TO SAFEGUARD FUNDAMENTAL RIGHTS AND FREEDOMS	193
§5. LIMITATIONS	194
§6. RESTRICTIONS ON LIMITATIONS	197
Chapter 2. The Particular Rights and Freedoms	198
§1. THE RIGHT TO LIFE	198
§2. HUMAN DIGNITY	199
§3. PERSONAL LIBERTY AND SECURITY	200
I. Right to Free Development of Personality and Participation in the Life of the Country	200
II. Liberty of the Person	201
§4. INTELLECTUAL FREEDOMS	206
I. Freedom of Expression, Press, Radio and Television	206
II. Freedom of Art, Science and Education	209
III. Religious Freedom	213
§5. PROCEDURAL RIGHTS	213
I. The Right to Judicial Protection	213
II. The Right not to be deprived of the assigned Judge	214
III. Right to Petition the Authorities and Rights of Access to Administrative Documents	215
IV. Right to Prior Hearing	216
§6. RIGHT OF COLLECTIVE ACTION	217
I. Freedom of Assembly	217

## Table of Contents

II. Freedom of Association	218
III. Freedom to Unionize	219
§7. ECONOMIC FREEDOM	221
I. Freedom of Contracts	221
II. Freedom of Business Activity	222
III. Freedom to Work and Practise a Profession	224
IV. The Right to Work and the Prohibition of Forced Labour	224
V. Protection of Property	225
§8. EQUALITY	227
I. The General Principle of Equality	227
II. Equality of the Sexes	228
III. Equal Contribution to Public Charges	229
IV. Equality of Payment for Work	229
V. Equality of Obligation to Military Service	230
VI. Equal Access to Public Office	230
VII. Other Forms of Equality	230
§9. POLITICAL RIGHTS	231
§10. SOCIAL RIGHTS AND OBLIGATIONS	231
§11. PROTECTION OF THE ENVIRONMENT	232
Part VII. Specific issues	237
Chapter 1. Religious Freedom, Church and State	237
§1. RELIGIOUS FREEDOM	237
§2. THE PREVAILING RELIGION	239
§3. THE AUTOCEPHALY AND SELF-GOVERNMENT OF THE CHURCH OF GREECE	240
§4. THE CONSTITUTIONAL GUARANTEE OF THE HOLY CANONS AND OF THE HOLY TRADITION	240
§5. THE CURRENT SYSTEM OF CHURCH: STATE RELATIONS	241
§6. THE CONSTITUTIONAL STATUS OF MOUNT ATHOS	246
Chapter 2. Citizenship, Minorities, Aliens	248
§1. CITIZENSHIP	248

## Table of Contents

I. Constitutional and Statutory Provisions	248
II. Relevance of Nationality	251
§2. PROTECTION OF MINORITIES	252
I. Constitutional Provisions	252
II. Religious Minorities in Greece: International Treaties	253
§3. LEGAL POSITION OF ALIENS	254
I. Constitutional Rules	254
II. Statutory Provisions	254
III. Categories of Aliens	255
IV. The Act 3386/2005	255
V. Extradition	259
Chapter 3. Taxing and Spending Power	261
§1. POWER TO RAISE TAXES	261
I. Constitutional Provisions	261
II. The General Principles of Taxation	261
§2. SPENDING POWER	264
I. Constitutional Provisions	264
II. The Nature of the Law on the State Budget	266
III. The General Principles of the State Budget	266
IV. The Procedure for Drawing up and Voting the State Budget	269
V. Judicial Review of the Execution of the State Budget	270
Chapter 4. The State of Siege (Emergency): War	271
§1. THE STATE OF SIEGE (EMERGENCY)	271
I. Constitutional Provisions	271
II. Statutory Provisions: The Power of the Military	272
§2. POWERS RELATING TO WAR, TREATY AND FOREIGN AFFAIRS	272
I. Powers Relating to War	272
II. Treaties	272
III. Foreign Affairs	273
Selected Bibliography	275
Index	299