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Institutional guarantees of
elections

— from the aspect of the
Constitutional Court

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“Rules are not necessarily
sacred, principles are.”
- Franklin D. Roosevelt



Principles in the Constitution:

- Chapter XIII: The Basic Principles of Elections
- 71. § (1) Members of Parliament, Members of the European Parliament, local government representatives, mayors and the mayor of the capital shall be elected by **direct, secret ballot** by voting citizens, based on their **universal** and **equal right to vote**.



Principles in the new Basic Law:

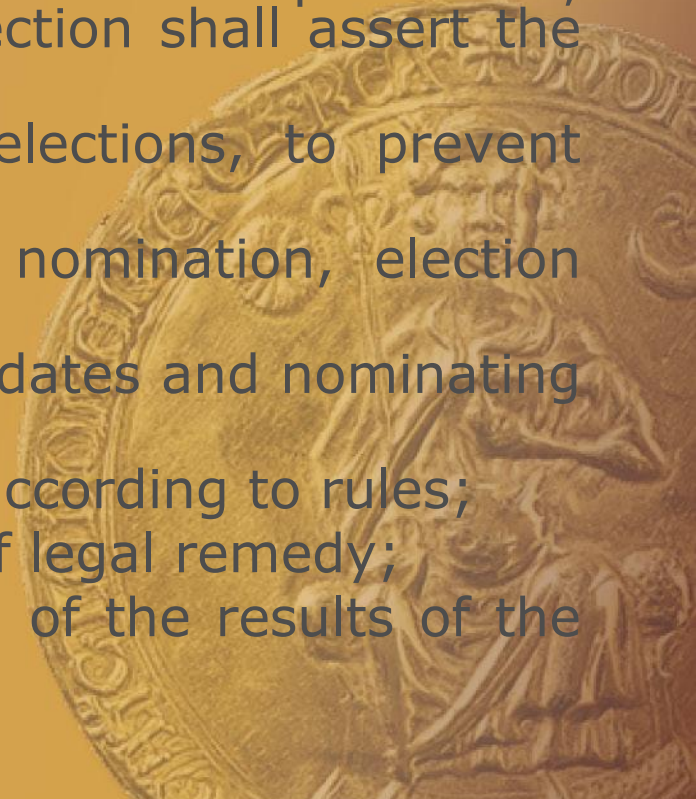
- Article 3. Members of Parliament shall be elected by **direct, secret ballot** by voting citizens, based on their **universal and equal right to vote**, in **elections which guarantee free expression of the will of voters**, in accordance with the procedures laid down in a cardinal Act of Parliament.



The basic principles of electoral procedure

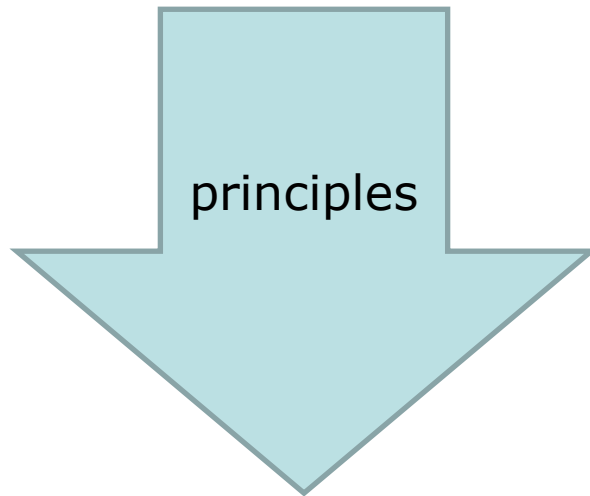
- **Act on Electoral Procedure**

- Article 3 When applying the rules of electoral procedure, the participants involved in the election shall assert the following basic principles:
 - a) to safeguard the fairness of elections, to prevent electoral frauds;
 - b) voluntary participation in the nomination, election campaign, voting;
 - c) equality of chances among candidates and nominating organizations;
 - d) exercise of rights in good faith, according to rules;
 - e) option and impartial adjudging of legal remedy;
 - f) fast and authentic determination of the results of the elections.



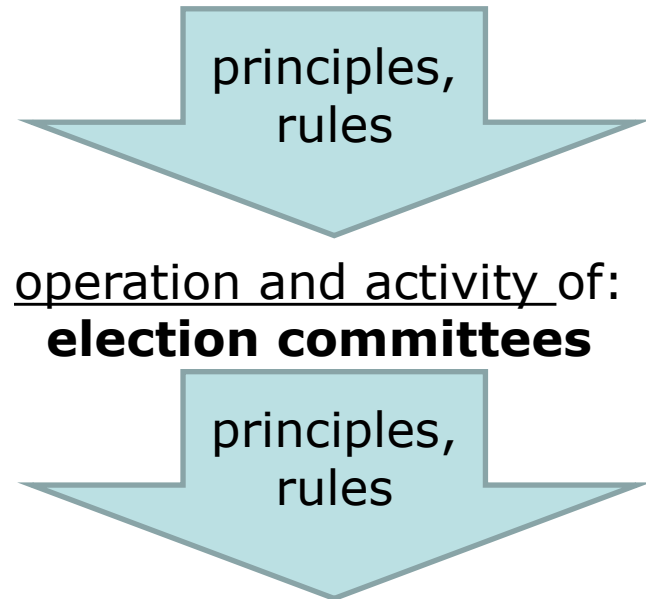
Institutional framework of implementation: present

Constitutional Court



rules of the electoral system and procedure (Parliament)

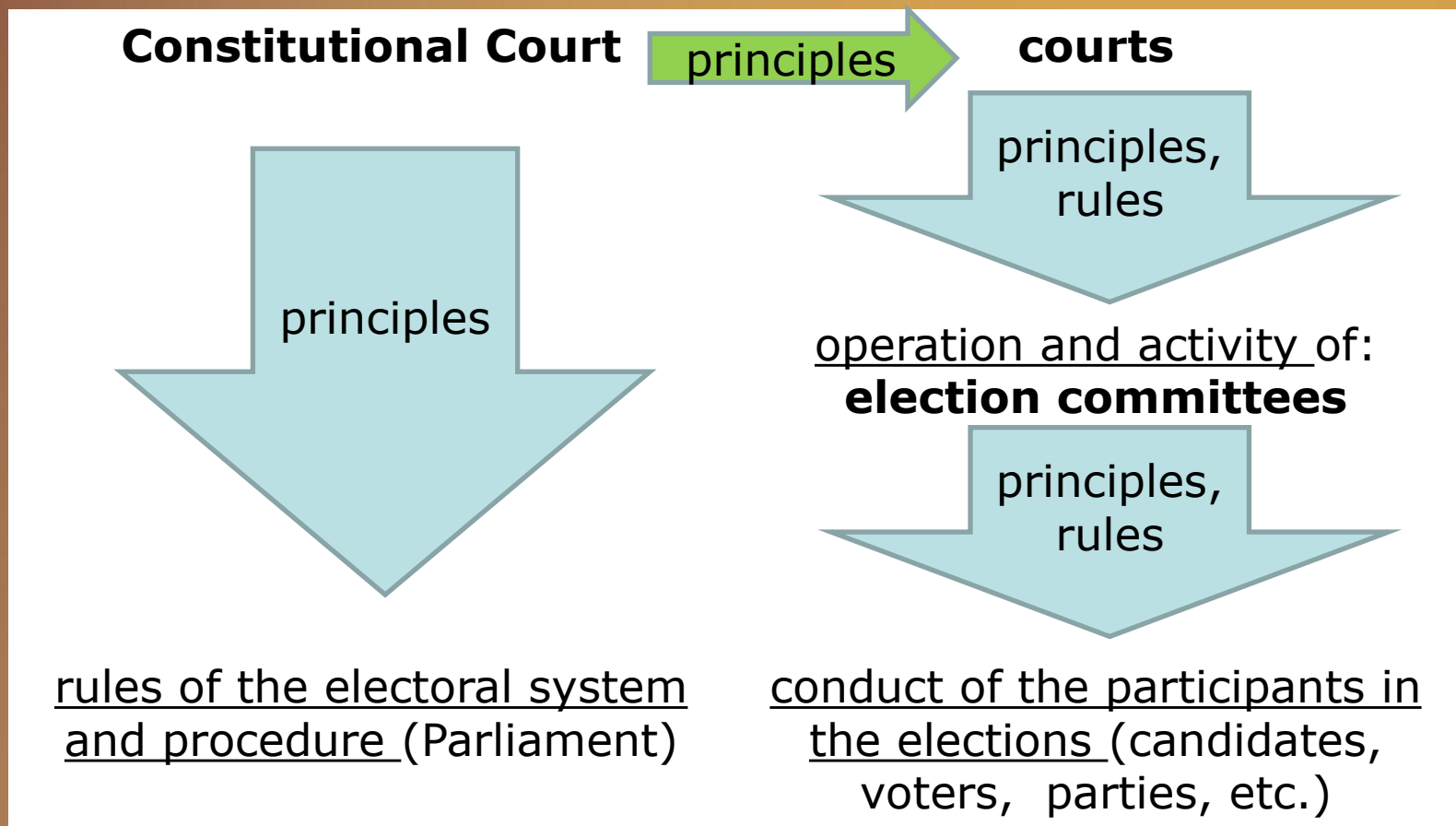
courts



operation and activity of:
election committees

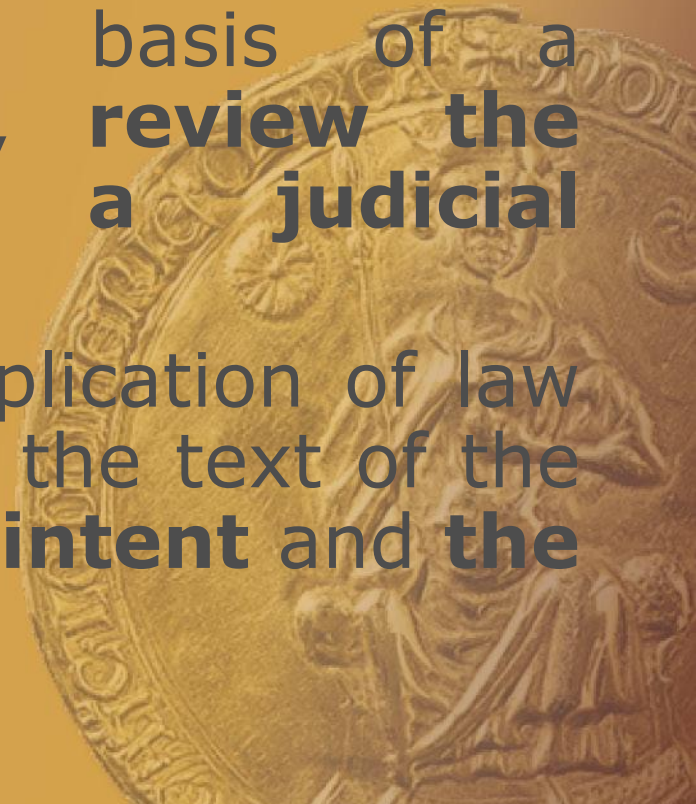
conduct of the participants in the elections (candidates, voters, parties, etc.)

Institutional framework of implementation: from 2012



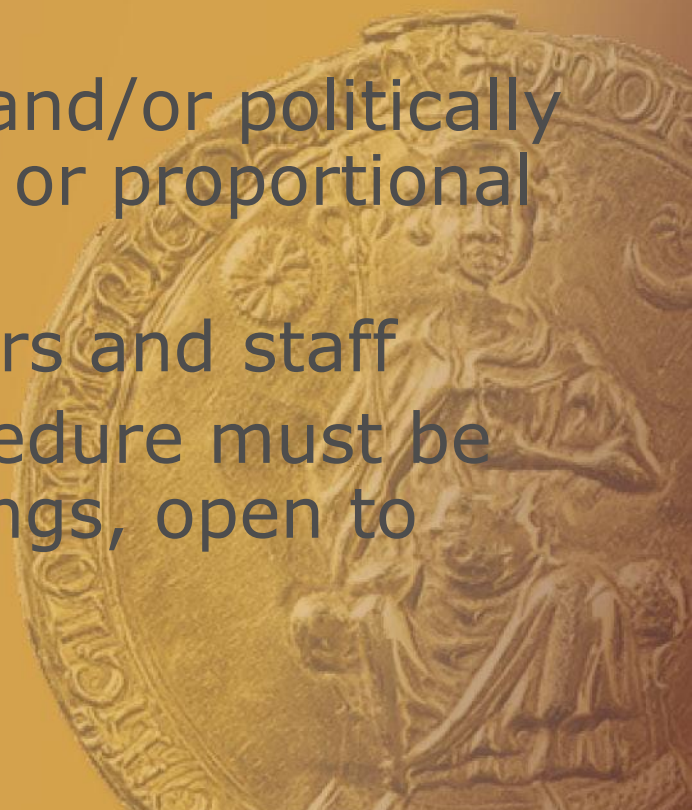
Constitutional complaint, legal interpretation

- Basic Law:
- Article 24 (2) The Constitutional Court shall [...] c) on the basis of a constitutional complaint, **review the constitutionality of a judicial decision, [...]**
- Article 28 During the application of law the courts will **interpret** the text of the law **consistent with its intent** and **the Basic Law.**



Independence of institutions

- Permanent status of members, no free recall
- Composition: independent and/or politically equal representation (strict or proportional equality)
- Appropriate, skilled members and staff
- transparency: rules of procedure must be clear, transparent proceedings, open to observation



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Thank you for your attention!

