

**Order issued by the Plenary of the Federal Constitutional Court
of 5 December 2023
pursuant to § 14(4) of the Federal Constitutional Court Act**

On 5 December 2023, the Plenary of the Federal Constitutional Court, acting under § 14(4) of the Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz – BVerfGG*) in the version published on 11 August 1993 (Federal Law Gazette, *Bundesgesetzblatt – BGBl I* p. 1473) and most recently amended by Art. 4 of the Act Implementing Directive (EU) 2016/680 for Criminal Proceedings and Adapting Data Protection Law to Regulation (EU) 2016/679 of 20 November 2019 (BGBl I p. 1731), decided that the Order issued by the Plenary of the Federal Constitutional Court of 21 December 2022 (BGBl 2023 I No. 14) is recast as follows:

A.

Effective 1 January 2024, in deviation from § 14(1) to (3) of the Federal Constitutional Court Act, the Second Senate of the Federal Constitutional Court shall also be competent

- I. For abstract or specific judicial review proceedings (§ 13 nos. 6 and 11 of the Federal Constitutional Court Act) and constitutional complaints with the following subject-matters:
 1. asylum law;
 2. the law on residence and on international mutual assistance in criminal matters;
 3. nationality law;
 4. the law pertaining to the civil service, and the law pertaining to employment by religious societies whose employment law is modelled on that of the civil service, including the disciplinary law for both fields;
 5. the law on military and alternative service, including the disciplinary law for both fields;

6. criminal law and the law of criminal procedure, excluding
 - a) proceedings primarily concerning the interpretation and application of Art. 5 or Art. 8 of the Basic Law (*Grundgesetz* – GG); and
 - b) proceedings that deal with Chapter 8 of the First Book of the Code of Criminal Procedure (*Strafprozessordnung* – StPO);
7. implementation of remand detention and prison sentences, as well as custodial measures of prevention and correction and orders for and implementation of other measures of deprivation of liberty;
8. administrative fining proceedings;
9. law on income tax including church tax law;

including all related proceedings with regard to liability for breach of official duty, legal costs, legal aid, legal assistance, judicial delay and challenges for possible bias.

- II. For judicial review proceedings and constitutional complaints that are brought before the Court in the judicial year 2024 and that deal with
 1. the law on displaced persons from the territories of the former German Reich;
 2. corporate tax law and tax law on corporate transformations;
 3. weapons law;
 4. the right of petition;
 5. the law on execution sales and compulsory enforcement [of judgments and other executory titles] under the Eighth Book of the Code of Civil Procedure (*Zivilprozessordnung* – ZPO), when the challenged act of public authority is rendered by the court competent for the enforcement of sentences (*Vollstreckungsgericht*) and was not rendered solely on the basis of a direct or indirect application of § 769(2) of the **Code of Civil Procedure**;

6. insolvency law (excluding proceedings in which a violation of Art. 12 of the Basic Law is asserted);
7. other matters of tort law;

including all related proceedings with regard to liability for breach of official duty, legal costs, legal aid, legal assistance, judicial delay and challenges for possible bias.

- III. For constitutional complaints that are brought before the Court from the judicial year 2024 and thereafter and that deal with civil matters, with the exception of the following subject-matters:
 1. the general right of personality;
 2. freedom of faith and freedom to profess a belief (Art. 4(1) and (2) of the Basic Law);
 3. freedom of expression, information, broadcasting and the press (Art. 5 of the Basic Law);
 4. family law (including the law related to custodianship, naming, civil status and transsexuals);
 5. intellectual property law;
 6. data protection law;
 7. freedom of the arts and freedom of research and teaching (Art. 5(3) of the Basic Law);
 8. freedom of assembly (Art. 8 of the Basic Law);
 9. freedom of association (Art. 9 of the Basic Law);
 10. the law relating to self-employed and generally individually exercised professions (including the law relating to the pension schemes for such professions);
 11. inheritance law;
 12. tenancy law;
 13. competition law;

14. property issues related to real estate and to corporations in connection with German reunification;
15. construction and land law including the law relating to land development and expropriation;
16. company law including cooperatives law;
17. banking, stock exchange and securities law;
18. credit law including collateral security interests;
19. the law relating to financial market stabilisation including expropriations;
20. regulatory law;
21. the law on lawyer-client agreements;
22. commercial law issues relating to public health insurance;
23. the enforcement of claims governed by public law;
24. the law on apartment ownership;
25. the law on contracts for services and contracts for work and labour;
26. sales law;
27. the law pertaining to the insurance sector;

including all related proceedings with regard to liability for breach of official duty, legal costs, legal aid, legal assistance, judicial delay and challenges for possible bias.

- IV. Furthermore, for judicial review proceedings and constitutional complaints
 1. that primarily deal with the interpretation and application of international law or of Art. 23, 24 and 59 of the Basic Law, with the exception of the individual human rights guarantees;
 2. that primarily concern issues other than the interpretation and application of Art. 1 to 17, 19, 101 and 103(1) of the Basic Law (also in conjunction with the principle of rule of law).

B.

For constitutional complaints, the applicable area of law is to be determined by the subject matter of the initial proceedings concerning the challenged act of authority, unless it is apparent that the primary focus relates to an area of law for which the other Senate is competent.

C.

The previous delimitation of competences between the Senates shall continue to apply to cases pending before the Court on or before 31 December 2023.

D.

This order enters into force on 1 January 2024.

Karlsruhe, 19 December 2023

The President
of the Federal Constitutional Court
Prof. Dr. Stephan Harbarth, LL.M. (Yale)