

## THE POLITICS OF CONSTITUTIONAL REVIEW IN GERMANY

GEORG VANBERG University of North Carolina at Chapel Hill



## Contents

Act	knowledgments	<i>page</i> xi
I	The Politics of Constitutional Review	ı
	EXAMPLES	2
	CONSTITUTIONAL REVIEW IN COMPARATIVE	
	PERSPECTIVE	9
	APPROACH OF THE BOOK	12
	PLAN OF THE BOOK	17
2	Implementation, Public Support, and Transparency	19
	PUBLIC SUPPORT AND JUDICIAL AUTHORITY	20
	MODELING CONSTITUTIONAL REVIEW	24
	PREDICTIONS OF THE MODEL	28
	INTERPRETATION AND COMPARATIVE STATICS	39
	TRANSPARENCY	45
	PUBLIC SUPPORT	49
	INFORMATION, POLITICAL COMPETITION, AND	
	SEPARATION OF POWERS	53
	CONCLUSION	56
	APPENDIX: PROOF FOR THE SIX PURE-STRATEGY PBE	
	OF THE GAME	58
3	The Federal Constitutional Court in Comparative	
	Perspective	61
	ESTABLISHING A COURT	62
	WEATHERING THE FIRST STORM	67
	ORGANIZATION AND STRUCTURE	77
	THE APPOINTMENT PROCESS	81
	JURISDICTION AND CASELOAD	87

## Contents

	DECISION-MAKING PROCEDURES	91
	DECISIONS	92
	CONCLUSION	93
4	Transparency and Judicial Deference	95
	FOCUSING ON TRANSPARENCY	97
	HYPOTHESES	100
	THE DATA	102
	ANALYSIS AND RESULTS	106
	CONTROLLING FOR THE LEGAL ENVIRONMENT	108
	SUBSTANTIVE IMPACT	111
	CONCLUSION	113
5	From the Inside Looking out: Judicial and Legislative	
	Perceptions	116
	PUBLIC SUPPORT AND JUDICIAL AUTHORITY	119
	PUBLIC SUPPORT AS CONSTRAINT ON JUDICIAL	
	BEHAVIOR	124
	EVASION AND THE COSTS OF COMPLIANCE	130
	CONCLUSION	137
	APPENDIX A: AFFILIATIONS OF INTERVIEWEES	138
	APPENDIX B: BUNDESTAG QUESTIONNAIRE	139
	APPENDIX C: COURT QUESTIONNAIRE	140
6	Pushing the Limits: Party Finance Legislation and the	
	Bundesverfassungsgericht	143
	PARTY FINANCE IN GERMANY	146
	THE COURT'S INITIAL APPROACH TO PARTY FINANCE	<b>1</b> 47
	LEGISLATIVE RESPONSE TO PARTY FINANCE II AND THE	
	1986 DECISIONS	152
	THE REVISION OF 1988 AND THE 1992 PARTY FINANCE	
	DECISION	162
	CONCLUSION	166
7	Prudent Jurists	168
	BEYOND GERMANY	172
	BROADER NORMATIVE IMPLICATIONS	175
Bibliography		179
Inc	Index	