judging the validity of a law, or issuing advisory judgements on a bill at the request of the government or assembly, often without the stimulus of a specific case. Judgements are often short and are usually unsigned, lacking the legal argument used by supreme courts. Unusually, France’s Constitutional Council can only practise abstract review. That is, it can only advise on the constitutionality of a bill before it becomes a law; it cannot invalidate bills once they have been enacted.

Just as the USA illustrates the supreme court tradition, so Germany has become the exemplar of this newer constitutional court approach. Its Federal Constitutional Court (FCC) provided an influential model for all post-communist countries in Eastern Europe (Kühn, 2006). Germany’s Basic Law (constitution) gives the FCC duties that overlap with, but also go beyond, those of America’s Supreme Court. It is assigned the functions of judicial review, adjudication of disputes between state and federal political institutions, protection of individual rights, and responsibility for protecting the constitutional and democratic order against groups and individuals seeking to overthrow it (Conradt, 2008, p. 253).

While decisions of America’s Supreme Court can be overturned by constitutional amendment, the eternity clause in Germany’s Basic Law means that the Federal Court’s judgements in key areas of democracy, federalism and human rights are absolutely the final word.

The FCC consists of 16 members appointed by the legislature for a non-renewable term of 12 years. The Court is divided into two specialized chambers, of which one focuses on the core liberties enshrined in the Basic Law. The Court’s public reputation has been enhanced by the provision of constitutional complaint, an innovative device permitting citizens to petition the Court directly once other judicial remedies are exhausted.

The Court actively pursued its duty of maintaining the new order against groups seeking its overthrow; for instance, by banning both communist and neo-Nazi parties in the 1950s. For this reason, among others, Kommers (2006) describes the Court as the ‘guardian of German democracy’. It has continued in this role by casting a careful eye on whether European Union laws and policies detract from the autonomy of the country’s parliament. The Court’s engagement here is potentially a powerful constraint on the development of both the EU and the euro.

The Court has proved to be active in many other areas of policy. Its decisions have impinged on topics such as abortion, election procedures, immigration, party funding, religion in schools, and university reform. Between 1951 and 1990, the Court ruled that 198 federal laws (nearly 5 per cent of the total) contravened the constitution.

Conradt (2008, pp. 253–4) offers an overall assessment of the Court’s achievements:

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**Figure 13.1 Establishing constitutional courts in Europe**

Constitutional courts became established in continental Europe, both West and East, after World War II. The success of Germany’s Federal Constitutional Court encouraged other countries to follow this model.

<table>
<thead>
<tr>
<th>Austria*</th>
<th>Germany*</th>
<th>France</th>
<th>Portugal</th>
<th>Belgium</th>
<th>Hungary</th>
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* These countries also possessed similar, but somewhat ineffective, courts in the interwar period.

Source: Adapted from Stone Sweet (2000, p. 31).