

**The Grand Chamber System in Retrospect and Perspective:
Methodological Observations on the Judges Act, the Effect of
Judicial Precedents, and the Alteration of Precedential Views
from the Standpoint of the Theory of Legal Sources**

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Abstract

The Grand Court has been in operation for more than five years. However, fundamental issues such as whether the decisions of the court of final appeal, including the rulings of the Grand Court, constitute a source of law, their legal nature, the interpretation of their binding effect, and the methodological or legal dogmatic requirements for the court of final appeal to change its legal views have received little further discussion. These questions cannot be fully answered by the simple statement that the Grand Court's decisions are binding only on the submitting panel. The issue of what kind of binding effect the Grand Court's ruling should have over the submitting panel of the court of final appeal, its other panels, and even other courts, and whether it constitutes a legal source to be applied in judgments, pertains to the identification of the recognition rules within the legal system, that is, what constitutes a source of law. This, in turn, raises the fundamental question of how legal practitioners should regard and differentiate the nature of the Grand Court's rulings. The controversy to be addressed here is whether the Grand Court's ruling constitutes a source of law, and if so, what is its nature as a source of law. Without directly confronting this issue, it is difficult to determine whether the replacement of the original precedent or decision system by the Grand Court's rulings can resolve the debate over whether precedents or

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decisions previously had any binding legal effect. To clarify this issue, this article first reviews the legal nature of judicial law to clearly define the normative and binding effect of the decisions of the court of final appeal, including the rulings of the Grand Court should possess, particularly their binding effect on other courts as well as on the court itself. The latter issue concerns the change of legal opinions in judicial precedents.

Furthermore, to put it succinctly, the Grand Court's rulings should neither be as weighty as law (which would infringe upon judicial independence) nor as insignificant as to allow deviations from the court's prior rulings without a special obligation to provide reasoning, which would harm legal consistency and stability. Thus, after addressing some initial criticisms of the Grand Court, this article will first discuss the legal status of Grand Court rulings as a source of law. It will then briefly analyze the specific reasoning burden the court of the final appeal should bear when altering its precedents, and finally, the article will present its conclusions.

Keywords: Grand Court, Source of Law, Final Court Precedents, Obligation to Submit, Precedent Change