

Categories of Constitutions

Flexible and Rigid

Most written Constitutions are rigid that is to say it is difficult to amend its provisions and they can only be changed through a special procedure.

In Malta according to article 66 of the Constitution, the Constitution can be amended in three different ways depending on which provision is to be changed.

As to the **life duration of Parliament**, a change to such provision can only be made if a law is passed by parliament supported by at least **two thirds** of all the members of the House of Representatives as well as a **referendum** where a majority of voters support such change.

As to most of the **important provisions** which are listed in article 66 e.g, the republican form of government, fundamental human rights, the electoral system etc one needs a two thirds majority to change e.g. the gender corrective mechanism,

If a provision is **not listed** under the first and second category in art 66 then it can be changed by an absolute majority i.e. a majority of one of all mps.

Types of Majority

Simple Majority means a majority of the mps who vote. This is the ordinary method of taking decisions in the House. If only 20 are present and vote, a simple majority is 11.

Absolute Majority means a majority of **all** mps not just those who are present. Since the current Parliament has 79 members an absolute majority means 40 ($79/2=39.33$);

Qualified Majority is a special majority e.g. two thirds of all MPs $79/2/3 = 52.6$ therefore 53

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Federal and Unitary Constitution

In the European Union most member states have a unitary Constitution, that is to say there is one level of government which is central. This does not mean that regions within the State do not enjoy a certain measure of autonomy; but the three organs of the State are organized at a central level. In the UK the fact that there is a Scottish Parliament and a Northern Ireland Assembly does not mean that the State is not Unitary.

Even Malta is a unitary state even though we have local councils with limited powers.

In a Federal State there are two levels, the State and the Federation. In EU only Germany and Austria are Federations. Outside Europe the typical examples would be USA, Russia, Australia, India, Brazil etc.

In a Federation, each State has a State Legislature a State Executive and State Judiciary. So for instance California has its own legislature at Sacramento the capital city with two chambers of the legislature a State Senate and a State House of Representatives. The State Executive is entrusted to a Governor elected by Californians, and there is a Supreme Court for California.

At the Federal Level in Washington DC there are the three federal organs of the State, namely the Federal Senate, the Federal House of Representatives at Capitol Hill, the Federal Head of Executive namely the President of USA at the White House and the Federal Supreme Court.

The constitution in a federal state will state which powers belong to the states and which to the Federation, For instance ordinary crime in USA is investigated by the State police, but terrorist offences would involve the Federal Police, namely the Federal Bureau of Investigation (FBI).