

**MASTER IN ISTITUZIONI PARLAMENTARI EUROPEE “MARIO
GALIZIA” PER CONSULENTI D’ASSEMBLEA**

UNIVERSITÀ DI ROMA “LA SAPIENZA”



**Fondazione
Paolo Galizia - Storia e Libertà**

D. GRIMM

Constituent Power and Limits of Constitutional Amendments in a German Perspective

Camera dei deputati

**CONSTITUENT POWER AND LIMITS OF CONSTITUTIONAL AMENDMENTS IN A GERMAN
PERSPECTIVE**

di Dieter Grimm

In my presentation I will proceed in four steps.

First, I will discuss the paradox of the constituent power, which constitutional theory has been unable to solve up to now. Whence comes the authority to make a constitution before the constitution has created this authority?

Secondly, the difference between constituent power and amendment power as a delegated and intermediate power between the constituent power and the legislative power will be elaborated.

Thirdly, the center piece of my talk will concern the limits of the amendment power in general and in Germany in particular (article 79 III Basic Law), together with its consequence, the possibility of unconstitutional constitutional amendments.

Fourthly, I conclude with a look to the Lisbon-Judgment of the Federal Constitutional Court (BVerfGE 123, 267 – 2009), where the Court excludes amendments to the Basic Law regarding the transformation of the European Union into a European state.