

THE SPANISH CONSTITUTION

Passed by the Cortes Generales in Plenary Meetings of
the Congress of Deputies and the Senate
held on October 31, 1978

Ratified by the spanish people in the referendum
of December 6, 1978

Sanctioned by His Majesty the King before
the Cortes on December 27, 1978



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DON JUAN CARLOS I, KING OF SPAIN, ANNOUNCE TO ALL THOSE WHO MAY HAVE KNOWLEDGE OF THIS,
THAT THE CORTES HAVE PASSED AND THE SPANISH PEOPLE HAVE RATIFIED THE FOLLOWING CONSTITUTION:

PREAMBLE

The Spanish Nation, desiring to establish justice, liberty and security, and to promote the well-being of all its members, in the exercise of its sovereignty, proclaims its will to:

Guarantee democratic co-existence under the Constitution and the law, in accordance with a fair social and economic order;

Consolidate a State of Law which ensures the rule of law as an expression of the popular will;

Protect all Spaniards and peoples of Spain in the exercise of human rights, of their cultures and traditions, and of their languages and institutions;

Promote the progress of culture and of the economy in order to ensure a worthy quality of life for all;

Establish a democratic and advanced society; and

Collaborate in the strengthening of peaceful relations and effective cooperation amongst all the peoples of the world.

Wherefore, the Cortes pass and the Spanish people ratify the following

CONSTITUTION

PRELIMINARY PART

Article 1

1. Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates as the highest values of its legal order, liberty, justice, equality and political pluralism.
2. National sovereignty is vested in the Spanish people, from whom emanate the powers of the State.
3. The political form of the Spanish State is that of a parliamentary monarchy.

Sovereignty rests with the citizens

Article 2

The Constitution is based on the indissoluble unity of the Spanish nation, the common and indivisible country of all Spaniards; it recognises and guarantees the right to autonomy of the nationalities and regions of which it is composed, and the solidarity amongst them all.

Unity of the Nation and the right to autonomy

Article 3

1. Castilian is the official Spanish language of the State. All Spaniards have the duty to know it and the right to use it.
2. The other Spanish languages shall also be official in the respective Autonomous Communities in accordance with their Statutes.
3. The wealth of the different language modalities of Spain is a cultural heritage which shall be the object of special respect and protection.

Castilian and the other Spanish languages

Article 4

1. The flag of Spain consists of three horizontal stripes: red, yellow and red, the yellow stripe being double the width of each red stripe.
2. The Statutes may recognise flags and ensigns of the Autonomous Communities. These shall be used together with the flag of Spain on their public buildings and in their official ceremonies.

The Spanish flag and those of the Autonomous Communities

Article 5

1. The capital of the State is the city of Madrid.

The Capital of Madrid

Article 6

Political parties are the expression of political pluralism; they contribute to the formation and expression of the will of the people and are a fundamental instrument for political participation. Their creation and the exercise of their activities are free in so far as they respect the Constitution and the law. Their internal structure and operation must be democratic.

Political parties

Article 7

Trade unions and employers associations contribute to the defence and promotion of the economic and social interests which they represent. Their creation and the exercise of their activities shall be unre-

Unions and business associations

stricted in so far as they respect the Constitution and the law. Their internal structure and operation must be democratic.

Article 8

1. The mission of the Armed Forces, comprising the Army, the Navy and the Air Force, is to guarantee the sovereignty and independence of Spain and to defend its territorial integrity and the constitutional order.

2. The basic structure of military organisation shall be regulated by an organic law in accordance with the principles of the Constitution.

The Armed Forces

Article 9

1. Citizens and public authorities are bound by the Constitution and all other legal provisions.

2. It is incumbent upon the public authorities to promote conditions which ensure that the freedom and equality of individuals and of the groups to which they belong may be real and effective, to remove the obstacles which prevent or hinder their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.

3. The Constitution guarantees the principle of legality, the hierarchy of legal provisions, the publicity of legal enactments, the non-retroactivity of punitive measures that are unfavourable to or restrict individual rights, the certainty that the rule of law will prevail, the accountability of the public authorities, and the prohibition against arbitrary action on the part of the latter.

Respect for the law

Liberty and equality

Legal guarantees

PART I

Fundamental rights and duties

Article 10

1. The human dignity, the inviolable and inherent rights, the free development of the personality, the respect for the law and for the rights of others are the foundation of political order and social peace.

2. The principles relating to the fundamental rights and liberties recognised by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements thereon ratified by Spain.

Legal guarantees

CHAPTER ONE

Spaniards and Aliens

Article 11

1. Spanish nationality is acquired, retained and lost in accordance with the provisions of the law.

2. No person of Spanish origin may be deprived of his or her nationality.

3. The State may negotiate dual nationality treaties with Latin-American countries or with those which have had or which have special links with Spain. In these countries, Spaniards may become natu-

Nationality

ralised without losing their nationality of origin, even if said countries do not recognise a reciprocal right to their own citizens.

Article 12

Spaniards legally come of age at eighteen.

**Adulthood: 18
years old**

Article 13

1. Aliens shall enjoy the public freedoms guaranteed by the present Title, under the terms to be laid down by treaties and the law.
2. Only Spaniards shall be entitled to the rights recognised in Article 23, except in cases which may be established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, in accordance with the principle of reciprocity.
3. Extradition shall be granted only in compliance with a treaty or with the law, on the basis of the principle of reciprocity. Extradition shall be excluded for political offences; but acts of terrorism shall not be regarded as such.
4. The law shall establish the terms under which citizens from other countries and stateless persons may enjoy the right to asylum in Spain.

**Rights of
foreigners**

CHAPTER TWO

Rights and Liberties

Article 14

Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.

**Equality
before the law**

SECTION 1

Fundamental Rights and Public Liberties

Article 15

Everyone has the right to life and to physical and moral integrity, and may under no circumstances be subjected to torture or to inhuman or degrading punishment or treatment. The death penalty is hereby abolished, except as provided by military criminal law in times of war.

Right to life

Article 16

1. Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no other restriction on their expression than may be necessary to maintain public order as protected by law.
2. No one may be compelled to make statements regarding his religion, beliefs or ideologies.
3. There shall be no State religion. The public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation with the Catholic Church and the other confessions.

**Ideological
and religious
freedom**

Right to personal freedom

Article 17

1. Every person has a right to freedom and security. No one may be deprived of his or her freedom except in accordance with the provisions of this article and in the cases and in the manner provided by the law.

2. Preventive detention may last no longer than the time strictly required in order to carry out the necessary investigations aimed at establishing the facts; in any case the person arrested must be set free or handed over to the judicial authorities within a maximum period of seventy-two hours.

3. Any person arrested must be informed immediately, and in a manner understandable to him or her, of his or her rights and of the grounds for his or her arrest, and may not be compelled to make a statement. The arrested person shall be guaranteed the assistance of a lawyer during police and judicial proceedings, under the terms established by the law.

4. A habeas corpus procedure shall be regulated by law in order to ensure the immediate handing over to the judicial authorities of any person arrested illegally.

Likewise, the maximum period of provisional imprisonment shall be stipulated by law.

Article 18

1. The right to honour, to personal and family privacy and to the own image is guaranteed.

2. The home is inviolable. No entry or search may be made without the consent of the occupant or a legal warrant, except in cases of flagrante delicto.

3. Secrecy of communications is guaranteed, particularly of postal, telegraphic and telephonic communications, except in the event of a court order to the contrary.

4. The law shall limit the use of data processing in order to guarantee the honour and personal and family privacy of citizens and the full exercise of their rights.

Article 19

Spaniards have the right to choose their place of residence freely, and to move about freely within the national territory.

Likewise, they have the right to freely enter and leave Spain subject to the conditions to be laid down by the law. This right may not be restricted for political or ideological reasons.

Article 20

1. The following rights are recognised and protected:

a) the right to freely express and disseminate thoughts, ideas and opinions through words, in writing or by any other means of communication;

b) the right to literary, artistic, scientific and technical production and creation;

c) the right to academic freedom;

d) the right to freely communicate or receive accurate information by any means of dissemination whatsoever. The law shall regu-

Right to intimacy. Inviolability of the home.

Freedom of residency and movement

Freedom of expression

late the right to invoke personal conscience and professional secrecy in the exercise of these freedoms.

2. The exercise of these rights may not be restricted by any form of prior censorship.

3. The law shall regulate the organisation and parliamentary control of the social communications media under the control of the State or any public agency and shall guarantee access to such media to the main social and political groups, respecting the pluralism of society and of the various languages of Spain.

4. These freedoms are limited by respect for the rights recognised in this Title, by the legal provisions implementing it, and especially by the right to honour, to privacy, to personal reputation and to the protection of youth and childhood.

5. The confiscation of publications and recordings and other information media may only be carried out by means of a court order.

Article 21

1. The right to peaceful unarmed assembly is recognised. The exercise of this right shall not require prior authorisation.

2. In the event of meetings in public places and of demonstrations, prior notification shall be given to the authorities, who may ban them only when there are well founded grounds to expect a breach of public order, involving danger to persons or property.

Right to meet

Article 22

1. The right of association is recognised.

2. Associations which pursue ends or use means classified as criminal offences are illegal.

3. Associations set up on the basis of this article must be recorded in a register for the sole purpose of public knowledge.

4. Associations may only be dissolved or have their activities suspended by virtue of a justified court order.

5. Secret and paramilitary associations are prohibited.

Right of association

Article 23

1. Citizens have the right to participate in public affairs, directly or through representatives freely elected in periodic elections by universal suffrage.

2. They likewise have the right to access on equal terms to public office, in accordance with the requirements determined by law.

Right to participate

Article 24

1. Every person has the right to obtain the effective protection of the Judges and the Courts in the exercise of his or her legitimate rights and interests, and in no case may he go undefended.

2. Likewise, all persons have the right of access to the ordinary judge predetermined by law; to the defence and assistance of a lawyer; to be informed of the charges brought against them; to a public trial without undue delays and with full guarantees; to the use of evidence appropriate to their defence; to not make selfincriminating statements; to not declare themselves guilty; and to be presumed innocent.

Legal protection of your rights

The law shall determine the cases in which, for reasons of family relationship or professional secrecy, it shall not be compulsory to make statements regarding alleged criminal offences.

Article 25

Principal of penal legality

1. No one may be convicted or sentenced for any act or omission which at the time it was committed did not constitute a felony, misdemeanour or administrative offence according to the law in force at that time.

Paid work for inmates

2. Punishments entailing imprisonment and security measures shall be aimed at rehabilitation and social reintegration and may not consist of forced labour. The person sentenced to prison shall enjoy during the imprisonment the fundamental rights contained in this Chapter except those expressly limited by the terms of the sentence, the purpose of the punishment and the penal law. In any case, he shall be entitled to paid employment and to the appropriate Social Security benefits, as well as to access to cultural opportunities and the overall development of his or her personality.

3. The Civil Administration may not impose penalties which directly or indirectly imply deprivation of freedom.

Article 26

Prohibition of the Courts of Honour

Courts of Honour are prohibited within the framework of the Civil Administration and of professional associations.

Article 27

Freedom to teach

1. Everyone has the right to education. Freedom of teaching is recognised.

2. Education shall aim at the full development of the human character with due respect for the democratic principles of coexistence and for the basic rights and freedoms.

3. The public authorities guarantee the right of parents to ensure that their children receive religious and moral instruction that is in accordance with their own convictions.

4. Elementary education is compulsory and free.

5. The public authorities guarantee the right of everyone to education, through general education programming, with the effective participation of all parties concerned and the setting up of educational centres.

6. The right of individuals and legal entities to set up educational centres is recognised. provided they respect Constitutional principles.

7. Teachers, parents and, when appropriate, pupils, shall share in the control and management of all the centres maintained by the Administration out of public funds, under the terms established by the law.

8. The public authorities shall inspect and standardise the educational system in order to guarantee compliance with the law.

9. The public authorities shall give aid to teaching establishments which meet the requirements to be laid down by the law.

10. The autonomy of Universities is recognised, under the terms established by the law.

University autonomy

Article 28

1. Everyone has the right to freely join a trade union. The law may limit the exercise of this right or make an exception to it in the case of the Armed Forces or Institutes or other bodies subject to military discipline, and shall regulate the special conditions of its exercise by civil servants. Trade union freedom includes the right to set up trade unions and to join the union of one's choice, as well as the right of the trade unions to form confederations and to found international trade union organisations, or to become members thereof. No one may be compelled to join a trade union.

**Right of
unionisation**

2. The right of workers to strike in defence of their interests is recognised. The law regulating the exercise of this right shall establish the guarantees necessary to ensure the maintenance of essential community services.

**Right to
strike**

Article 29

1. All Spaniards shall have the right to individual and collective petition, in writing, in the manner and subject to the consequences established by the law.

**Right to
petition**

2. Members of the Armed Forces or Institutes or bodies subject to military discipline may only exercise this right individually and in accordance with the provisions of the legislation pertaining to them.

SECTION 2

Rights and Duties of Citizens

Article 30

1. Citizens have the right and the duty to defend Spain.

2. The law shall determine the military obligations of Spaniards and shall regulate, with the proper safeguards, conscientious objection as well as other grounds for exemption from compulsory military service; it may also, when appropriate, impose a form of social service in lieu thereof.

3. A civilian service may be established with a view to accomplishing objectives of general interest.

4. The duties of citizens in the event of grave risk, catastrophe or public calamity may be regulated by law.

**Military
service and
conscientious
objection**

Article 31

1. Everyone shall contribute to sustain public expenditure in proportion to his or her financial means, through a just and progressive system of taxation based on principles of equality, which shall in no case be confiscatory in nature.

2. Public expenditure shall be incurred in such a way that an equitable allocation of public resources may be achieved, and its planning and execution shall comply with criteria of efficiency and economy.

3. Personal or property contributions for public purposes may only be imposed in accordance with the law.

**Tributary
system**

Article 32

Matrimony

1. Men and women have the right to marry with full legal equality.
2. The law shall regulate the forms of marriage, the age at which it may be entered into and the required capacity therefore, the rights and duties of the spouses, the grounds for separation and dissolution, and the consequences thereof.

Article 33

Right of ownership

1. The right to private property and inheritance is recognised.
2. The content of these rights shall be determined by the social function which they fulfil, in accordance with the law.
3. No one may be deprived of his or her property and rights, except on justified grounds of public utility or social interest and with a proper compensation in accordance with the provisions of the law.

Article 34

Right of foundation

1. The right to set up foundations for purposes of general interest is recognised, in accordance with the law.
2. The provisions of clauses 2 and 4 of Article 22 shall also be applicable to foundations.

Article 35

Work, rights and duty

1. All Spaniards have the duty to work and the right to employment, to free choice of profession or trade, to advancement through their work, and to sufficient remuneration for the satisfaction of their needs and those of their families; moreover, under no circumstances may they be discriminated against on account of their gender.
2. The law shall establish a Workers' Statute.

Article 36

Professional Associations

The law shall regulate the special features of the legal status of Professional Associations and the exercise of the professions requiring academic degrees. The internal structure and operation of the Associations must be democratic.

Article 37

Labour agreements and disputes

1. The law shall guarantee the right to collective labour bargaining between worker and employer representatives, as well as the binding force of the agreements.
2. The right of workers and employers to adopt collective labour dispute measures is hereby recognised. The law regulating the exercise of this right shall, without prejudice to the restrictions which it may establish, include the safeguards necessary to ensure the operation of essential community services.

Article 38

Company freedom. Market economy

Free enterprise is recognised within the framework of a market economy. The public authorities shall guarantee and protect its exercise and the safeguarding of productivity in accordance with the demands of the economy in general and, as the case may be, of its planning.

CHAPTER THREE

Governing Principles of Economic and Social Policy

Article 39

1. The public authorities shall ensure the social, economic and legal protection of the family.
2. The public authorities likewise shall ensure full protection of children, who are equal before the law, irrespective of their parentage and the marital status of the mothers. The law shall provide for the investigation of paternity.
3. Parents must provide their children, whether born within or outside wedlock, with assistance of every kind while they are still under age and in other circumstances in which the law is applicable.
4. Children shall enjoy the protection provided for in the international agreements which safeguard their rights.

**Protection of
the family and
children**

Article 40

1. The public authorities shall promote favourable conditions for social and economic progress and for a more equitable distribution of personal and regional income within the framework of a policy of economic stability. They shall devote special attention to carrying out a policy directed towards full employment.
2. Likewise, the public authorities shall foster a policy guaranteeing vocational training and retraining; they shall ensure workplace safety and hygiene and shall guarantee adequate rest by means of a limited working day, periodic paid holidays, and the promotion of suitable centres.

**Redistribution
of income.
Full
employment**

**Professional
training.
Workday and
rest**

Article 41

The public authorities shall maintain a public Social Security system for all citizens which will guarantee adequate social assistance and benefits in situations of hardship, especially in cases of unemployment. Supplementary assistance and benefits shall be optional.

**Social
security**

Article 42

The State shall be especially concerned with safeguarding the economic and social rights of Spanish workers abroad, and shall direct its policy towards securing their return.

Emigrants

Article 43

1. The right to health protection is recognised.
2. It is incumbent upon the public authorities to organise and safeguard public health by means of preventive measures and the necessary benefits and services. The law shall establish the rights and duties of all concerned in this respect.
3. The public authorities shall promote health education, physical education and sports. Likewise, they shall encourage the proper use of leisure time.

**Health
protection**

**Promotion of
sports**

Article 44

Access to culture

1. The public authorities shall promote and watch over access to cultural opportunities, to which all are entitled.
2. The public authorities shall promote science and scientific and technical research for the benefit the general interest.

Article 45

Environment. Quality of life

1. Everyone has the right to enjoy an environment suitable for personal development, as well as the duty to preserve it.
2. The public authorities shall safeguard rational use of all natural resources with a view to protecting and improving the quality of life and preserving and restoring the environment, by relying on essential collective solidarity.
3. Criminal or, where applicable, administrative sanctions, as well as the obligation to make good the damage, shall be imposed, under the terms established by the law, against those who violate the provisions contained in the previous clause.

Article 46

Conservation of artistic heritage

The public authorities shall guarantee the preservation and promote the enrichment of the historic, cultural and artistic heritage of the peoples of Spain and of the property of which it consists, regardless of its legal status and its ownership. Offences committed against this heritage shall be punished under criminal law.

Article 47

Right to housing. Land usage.

All Spaniards are entitled to enjoy decent and adequate housing. The public authorities shall promote the necessary conditions and shall establish appropriate standards in order to make this right effective, regulating land use in accordance with the general interest in order to prevent speculation.

The community shall participate in the benefits accruing from the urban policies of the public bodies.

Article 48

Youth participation

The public authorities shall promote conditions directed towards the free and effective participation of young people in political, social, economic and cultural development.

Article 49

Services for the physically handicapped

The public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration of the physically, sensorially and mentally handicapped who shall be given the specialised care that they require, and be afforded them special protection in order that they may enjoy the rights conferred by this Title upon all citizens.

Article 50

The Elderly

The public authorities shall guarantee, through adequate and periodically updated pensions, sufficient financial means for senior citizens.

Likewise, and independently of the obligations of their families towards them, they shall promote their welfare through a system of social services which shall provide for their specific problems of health, housing, culture and leisure.

Article 51

1. The public authorities shall guarantee the protection of consumers and users and shall, by means of effective measures, safeguard their safety, health and legitimate financial interests.

2. The public authorities shall make means available to inform and educate consumers and users, shall foster their organisations, and shall provide hearings for such organisations on all matters affecting their members, under the terms to be established by law.

3. Within the framework of the provisions of the foregoing clauses, the law shall regulate domestic trade and the system of licensing commercial products.

**Consumer
defence**

Article 52

The law shall regulate professional organisations which contribute to the defence of their own economic interests. Their internal structure and operation must be democratic.

**Professional
organisations**

CHAPTER FOUR

Guarantee of Fundamental Rights and Liberties

Article 53

1. The rights and liberties recognised in Chapter Two of the present Title are binding for all public authorities. The exercise of such rights and liberties, which shall be protected in accordance with the provisions of Article 161, 1a), may be regulated only by law which shall, in any case, respect their essential content.

2. Any citizen may assert his or her claim to the protect the liberties and rights recognised in Article 14 and in Section 1 of Chapter Two, by means of a preferential and summary procedure in the ordinary courts and, when appropriate, by submitting an individual appeal for protection («recurso de amparo») to the Constitutional Court. This latter procedure shall be applicable to conscientious objection as recognised in Article 30.

3. The substantive legislation, judicial practice and actions of the public authorities shall be based on the recognition, respect and protection of the principles recognised in Chapter Three. The latter may only be invoked in the ordinary courts in the context of the legal provisions by which they are developed.

**Protection of
freedoms and
rights**

**Appeal (on the
grounds of
unconstitutionality)**

Article 54

An organic law shall regulate the institution of Ombudsman the People, who shall be a high commissioner of the Cortes Generales, appointed by them to defend the rights contained in this Title; for this purpose he may supervise Administration activities and report thereon to the Cortes Generales.

Ombudsman

CHAPTER FIVE

Suspension of Rights and Liberties

Article 55

Suspension of rights and freedoms

1. The rights recognised in Articles 17 and 18, clauses 2 and 3, Articles 19 and 20, clause 1, subclauses, a) and d) and clause 5, Articles 21 and 28, clause 2, and Article 37, clause 2, may be suspended when the state of emergency or siege (martial law) is declared under the terms provided in the Constitution. Clause 3 of Article 17 is excepted from the foregoing provisions in the event of the proclamation of a state of emergency.

2. An organic law may determine the manner and the circumstances in which, on an individual basis and with the necessary participation of the Courts and proper Parliamentary control, the rights recognised in Articles 17, clause 2, and 18, clauses 2 and 3, may be suspended as regards specific persons in connection with investigations of the activities of armed bands or terrorist groups.

Unjustified or abusive use of the powers recognised in the foregoing organic law shall give rise to criminal liability where it is a violation of the rights and liberties recognised by the law.

PART II

The Crown

Article 56

The King

1. The King is the Head of State, the symbol of its unity and permanence. He arbitrates and moderates the regular functioning of the institutions, assumes the highest representation of the Spanish State in international relations, especially with those nations belonging to the same historic community, and exercises the functions expressly conferred on him by the Constitution and the law.

2. His title is King of Spain, and he may use the other titles appertaining to the Crown.

3. The person of the King is inviolable and shall not be held accountable. His acts shall always be countersigned in the manner established in Article 64. Without such countersignature they shall not be valid, except as provided under Article 65,2.

Article 57

Succession to the Crown

1. The Crown of Spain shall be inherited by the successors of H.M. Juan Carlos I de Borbon, the legitimate heir of the historic dynasty. Succession to the throne shall follow the regular order of primogeniture and representation, in the following order of precedence: the earlier shall precede the later lines; within the same line, the closer degree shall precede the more distant; within the same degree, the male shall precede the female; and for the same sex, the older shall precede the younger.

2. The Crown Prince, from the time of his birth or the event conferring this position upon him, shall hold the title of Prince of Asturias and the other titles traditionally held by the heir to the Crown of Spain.

The Prince of Asturias

3. Should all the lines designated by law become extinct, the Cortes Generales shall provide for the succession to the Crown in the manner most suited to the interests of Spain.

4. Those persons with a right to succession to the Throne who marry against the express prohibition of the King and the Cortes Generales, shall be excluded from succession to the Crown, as shall their descendants.

5. Abdications and renunciations and any doubt concerning a fact or the law that may arise in connection with the succession to the Crown shall be resolved by an organic law.

Article 58

The Queen Consort, or the consort of the Queen, may not assume any constitutional functions, except in accordance with the provisions by the Regency.

The Queen

Article 59

1. In the event of the King being under age, the father or mother of the King or, in default thereof, the relative of legal age who is nearest in succession to the Crown, according to the order established in the Constitution, shall immediately assume the office of Regent, which he shall exercise until the Prince reaches adulthood.

2. If the King becomes incapable of exercising his authority, and this incapacity is recognised by the Cortes Generales, the Crown Prince shall immediately assume the powers of the Regency, if he is of age. If he is not, the procedure outlined in the foregoing clause shall be followed until the Prince reaches adulthood.

3. If there is no person entitled to assume the Regency, it shall be appointed by the Cortes Generales and shall be composed of one, three or five persons.

4. In order to exercise the Regency, it is necessary to be Spanish and legally of age.

5. The Regency shall be exercised by constitutional mandate, and always on behalf of the King.

The Regency

Article 60

1. The guardian of the King during his minority shall be the person designated in the will of the late King, provided that he is of age and Spanish by birth. If a guardian has not been designated, the father or mother shall be guardian, as long as he or she remains a widower or widow, as the case may be. In default thereof, the guardian shall be appointed by the Cortes Generales, but the offices of Regent and Guardian may not be held by the same person, except by the father, mother or direct ascendants of the King.

2. Exercise of the guardianship is also incompatible with the holding of any office or political representation.

Guardian of the King

Article 61

1. The King, on being proclaimed before the Cortes Generales, shall take oath to carry out his duties faithfully, to obey the Constitution and

the law and ensure that they are obeyed by, and to respect the rights of citizens and the Autonomous Communities.

2. The Crown Prince, on coming of age, and the Regent or Regents, on assuming office, shall take the same oath, as well as that of loyalty to the King.

Article 62

It is incumbent upon the King:

- a) to sanction and promulgate the laws;
- b) to summon and dissolve the Cortes Generales and to call elections under the terms provided in the Constitution;
- c) to call a referendum in the circumstances provided in the Constitution;
- d) to propose a candidate for President of the Government and, as the case may be, appoint him or remove him from office, as provided in the Constitution.
- e) to appoint and dismiss members of the Government on the proposal of its President;
- f) to issue the decrees agreed upon by the Council of Ministers, to confer civil and military positions and award honours and distinctions in conformity with the law;
- g) to be informed regarding affairs of State and, for this purpose, to preside over the meetings of the Council of Ministers whenever he deems opportune, at the request of the President of the Government;
- h) to exercise supreme command of the Armed Forces;
- i) to exercise the right to grant pardons in accordance with the law, which may not authorise general pardons;
- j) to exercise the High Patronage of the Royal Academies.

Article 63

1. The King accredits ambassadors and other diplomatic representatives. Foreign representatives in Spain are accredited to him.

2. It is incumbent upon the King to express the State's assent to the entering into of international commitments through treaties, in conformity with the Constitution and the law.

3. It is incumbent on the King, following authorisation by the Cortes Generales, to declare war and to make peace.

Article 64

1. The acts of the King shall be countersigned by the President of the Government and, where appropriate, by the competent ministers. The nomination and appointment of the President of the Government and the dissolution provided under Article 99, shall be countersigned by the Speaker of Congress.

2. Those countersigning the acts of the King shall be liable for them.

Article 65

1. The King receives an overall amount from the State Budget for the upkeep of his Family and Household and distributes it freely.

2. The King freely appoints and dismisses the civil and military members of his Household.

Functions of the King

Countersigning of the acts of the King

The Household of the King

PART III

The Cortes Generales

CHAPTER ONE

The Houses of Parliament

Article 66

1. The Cortes Generales represent the Spanish people and consist of the Congress of Deputies and the Senate.
2. The Cortes Generales exercise the legislative power of the State, approve its Budget, control Government action and hold all the other powers vested in them by the Constitution.
3. The Cortes Generales are inviolable.

**The «Cortes
Generales»:
legislative
authority and
control of the
government**

Article 67

1. No person may be a member of both Houses simultaneously, or be a representative in the Assembly of an Autonomous Community and a Deputy to Congress at the same time.
2. The members of the Cortes Generales shall not be bound by a compulsory mandate.
3. Meetings of members of Parliament which are held without having been called in the statutory manner shall not be binding on the Houses, and members may not exercise their functions therein nor enjoy the privileges deriving from their office.

**Parliamentary
mandate**

Article 68

1. Congress consists of a minimum of three hundred and a maximum of four hundred Deputies, elected by universal, free, equal, direct and secret suffrage, under the terms established by law.
2. The electoral district is the province. The cities of Ceuta and Melilla shall each be represented by one Deputy. The total number of Deputies shall be distributed in accordance with the law, with each electoral district being assigned a minimum initial representation and the remainder being distributed in proportion to the population.
3. The election in each electoral district shall be conducted on the basis of proportional representation.
4. Congress is elected for four years. The term of office of the Deputies ends four years after their election or on the day that the House is dissolved.
5. All Spaniards who are entitled to the full exercise of their political rights are electors and eligible for election.

**The Congress
of Deputies**

**Electoral
system**

**Four years of
legislature**

The law shall recognise and the State shall facilitate the exercise of the right to vote of Spaniards who are outside Spanish territory.

6. Elections shall take place between thirty and sixty days after the end of the previous term of office. The Congress so elected must be convened within twenty five days following the holding of elections.

Article 69

The Senate, House of territorial representation

1. The Senate is the House of territorial representation.
2. In each province, four Senators shall be elected by the voters thereof by universal, free, equal, direct and secret suffrage, under the terms established by an organic law.

3. In the islands provinces, each island or group of islands with a «Cabildo» or Island Council shall constitute an electoral district for the purpose of electing Senators, of whom there shall be three for each of the larger islands –Gran Canaria, Mallorca and Tenerife– and one for each of the following islands or groups of islands: Ibiza-Formentera, Menorca, Fuerteventura, Gomera, Hierro, Lanzarote and La Palma.

4. The cities of Ceuta and Melilla shall each elect two Senators.

5. The Autonomous Communities shall, moreover, nominate one Senator and a further Senator for each million inhabitants in their respective territories. The nomination shall be incumbent upon the Legislative Assembly or, in default thereof, upon the Autonomous Community's highest corporate body, in accordance with the provisions of the Statutes, which shall, in any case, guarantee adequate proportional representation.

6. The Senate is elected for four years. The Senators' term of office shall end four years after their election or on the day that the House is dissolved.

Four years of legislature

Article 70

Incompatibilities and ineligibility

1. The electoral law shall establish grounds for inelegibility and incompatibility for Deputies and Senators, which shall in any case include those who are:

- a) members of the Constitutional Court;
- b) the holders of high State administrative offices, as determined by law, with the exception of members of the Government;
- c) the Ombudsman;
- d) Magistrates, Judges and Public Prosecutors when in office;
- e) professional soldiers and members of the Security and Police Forces and Corps on active duty;
- f) members of the Electoral Commissions.

2. The validity of the certificates of election and credentials of the members of both Houses shall be subject to judicial control, under the terms to be established by the electoral law.

Article 71

Parliamentary inviolability and immunity

1. Deputies and Senators shall enjoy indemnity for opinions expressed when in office.

2. During their terms of office, Deputies and Senators shall likewise enjoy immunity and may only be arrested in the event of *delicto flagrante*. They may be neither indicted nor tried without prior authorisation of the respective Houses.

3. In criminal proceedings brought against Deputies and Senators, the competent court shall be the Criminal Section of the Supreme Court.

4. Deputies and Senators shall receive a salary to be fixed by the respective Houses.

Article 72

1. The Houses establish their own Standing Orders, adopt their budgets autonomously and, by common agreement, regulate the Personnel Statutes of the Cortes Generales. The Standing Orders and any alteration thereof shall be subject in their entirety to a final vote, which shall require an absolute majority.

2. The Houses elect their respective Speaker and the other members of their committees. Joint sessions shall be presided over by the Speaker of Congress and shall be governed by the Standing Orders of the Cortes Generales passed by absolute majority of the members of each House.

3. The Speakers of the Houses exercise on behalf of the latter all administrative powers and disciplinary functions within their respective Houses.

Standing Orders of the Parliament

Article 73

1. The Houses shall meet annually for two ordinary sessions: the first from September to December, and the second from February to June.

2. The Houses may meet in extraordinary session at the request of the Government, of the Permanent Deputation or of the absolute majority of members of either of the Houses. Extraordinary sessions must be convened with a specific agenda and shall be adjourned once has been dealt with.

Sessions of the Houses

Article 74

1. The Houses shall meet in joint session in order to exercise the non-legislative powers expressly conferred upon the Cortes Generales by Title II.

2. The decisions of the Cortes Generales outlined in Articles 94.1, 145.2 and 158.2 shall be passed by majority vote of each of the Houses. In the first case, the procedure shall be initiated by Congress, and in the remaining two by the Senate. In both cases, if an agreement is not reached between the Senate and Congress, an attempt to reach agreement shall be made by a Joint Commission consisting of an equal number of Deputies and Senators. The Commission shall submit a text which shall be voted on by both Houses. If this is not passed in the established manner, Congress shall decide by absolute majority.

Joint sessions of the Houses

Article 75

1. The Houses shall convene in Plenary Sessions and in Committees.

2. The Houses may delegate to the Standing Legislative Committees the approval of governmental or non-governmental bills. However, the Plenum may at any time demand a debate and vote on any governmental or non-governmental bill which has been the object of this delegation.

3. Excluded from the provisions of the foregoing paragraph are constitutional reform, international affairs, organic and basic laws and the General State Budget.

Plenary sessions and Commissions of the Houses

Article 76

Fact-finding committees

1. Congress and the Senate and, when appropriate, both Houses jointly, may appoint fact-finding committees on any matter of public interest. Their conclusions shall not be binding on the Courts, nor shall they affect judicial decisions, notwithstanding the fact that the results of investigations may be referred to the Public Prosecutor for him to take appropriate action whenever necessary.

2. It shall be compulsory to appear when summoned by the Houses. Penalties which may be imposed for failure to comply with this obligation shall be established by law.

Article 77

Petitions to the Houses

1. The Houses may receive individual and collective petitions, always in writing; direct submission by citizens' demonstrations is prohibited.

2. The Houses may refer the petitions that they receive to the Government. The Government is obliged to provide an explanation regarding their content, when required to do so by the Houses.

Article 78

Permanent Deputation

1. In each House there shall be a Permanent Deputation («Diputación Permanente») consisting of a minimum of twenty-one members who shall represent the Parliamentary groups in proportion to their numerical importance.

2. The Permanent Deputation shall be presided over by the Presidents of the respective Houses and their functions shall be: that provided in Article 73 which consists of assuming the powers of the Houses in accordance with Articles 85 and 116 in the event that the latter have been dissolved or that their terms have expired, and that of safeguarding the powers of the Houses when they are not in session.

3. On the expiration of the term of the Cortes Generales, or in case of dissolution, the Permanent Deputation shall continue to perform their functions until the new Cortes Generales are constituted.

4. When the House concerned meets, the Permanent Deputation shall report on the matters dealt with and on its decisions.

Article 79

Adoption of resolutions

1. In order to adopt resolutions, the Houses must have met in a statutory manner, with a majority of their members present.

2. In order to be valid, these resolutions must be passed by the majority of the members present, without prejudice to the special majorities that may be established by the Constitution or the organic laws and those which are established by the Standing Orders of the Houses.

3. The votes of Senators and Deputies are personal and may not be delegated.

Article 80

Publicity of the sessions

The plenary sessions of the Houses shall be public, except when otherwise decided by each House by absolute majority, or in accordance with the Standing Orders.

CHAPTER TWO

Drafting of Laws

Article 81

1. Organic laws are those relating to the development of fundamental rights and public liberties, those which establish Statutes of Autonomy and the general electoral system, and other laws provided in the Constitution.

2. The passing, amendment or repeal of the organic laws shall require an absolute majority of the members of Congress in a final vote on the bill as a whole.

Organic Laws

Article 82

1. The Cortes Generales may delegate to the Government the power to issue rules with the force of law on specific matters not included in the foregoing article.

2. Legislative delegation must be granted by means of a basic law when its purpose is that of drawing up texts comprising various articles, or by an ordinary law when it is a matter of consolidating several legal texts into one.

3. Legislative delegation must be expressly granted to the Government for specific purposes and with a fixed time limit for its exercise. The delegation shall expire when the Government, having availed itself thereof, has published the appropriate regulations. It may not be construed as having been granted implicitly or for an indeterminate period. Nor shall subdelegation to authorities other than the Government itself be authorized.

4. Basic laws shall precisely define the purpose and scope of legislative delegation, as well as the principles and criteria to be followed in exercising it.

5. Authorisation for revising legal texts shall determine the legislative scope implicit in the initiative, specifying if it is restricted to the mere formulation of a single text or whether it covers regulating, clarifying and harmonising the legal texts that are to be consolidated.

6. Initiatives may establish additional control formulas in each case, without prejudice to the jurisdiction of the Courts.

The legislative delegation

Revising legal texts

Article 83

The basic laws may in no case:

- a) authorise the modification of the basic law itself;
- b) grant power to enact retroactive regulations.

Limitation of the basic laws

Article 84

In the event that a non-governmental law or amendment is contrary to currently valid legislative initiative, the Government may oppose its passage. In this case, a non-governmental law may be submitted for the total or partial repeal of the initiative.

Article 85

Legislative Decrees

Government provisions containing delegated legislation shall be entitled «Legislative Decrees».

Article 86

Acts and their validation

1. In cases of extraordinary and urgent need, the Government may issue temporary legislative provisions which shall take the form of decree-laws and which may not affect the regulation of the basic State institutions, the rights, duties and liberties contained in Title 1, the system of the Autonomous Communities, or the General Electoral Law.

2. The decree-laws must be submitted forthwith to the Congress of Deputies, which must be summoned for this purpose if not already in session. They must be debated and voted upon in their entirety within thirty days after their promulgation. Congress must expressly declare itself in favour of ratification or repeal within said period of time, for which purpose the Standing Orders shall establish a special summary procedure.

3. During the period established in the foregoing clause, their passage through the Cortes may be the same as for Government bills, by means of the emergency procedure.

Article 87

Legislative initiative

1. The Government, the Congress and the Senate are competent to propose legislation, in accordance with the Constitution and the Standing Orders of the Houses.

Legislative initiative of the Autonomous Communities

2. The Assemblies of the Autonomous Communities may request the Government to pass a bill or refer a non-governmental bill to the Congressional Steering Committee and to delegate a maximum of three Assembly members to defend it.

Popular legislative initiative

3. An organic law shall establish the manner in which popular initiative in connection with the submitting of non-governmental bills shall be regulated, as well as the requirements therefore. In any case, no fewer than 500,000 authenticated signatures shall be required. This initiative may not touch on matters concerning organic law, taxation, international affairs or the prerogative of granting pardons.

Article 88

Government Bills

Government bills shall be passed by the Council of Ministers, which shall refer them to Congress, accompanied by a statement setting forth the necessary grounds and facts in order for them to reach a decision thereon.

Article 89

Non-governmental Bill

1. The passage of non-governmental bills shall be regulated by the Standing Orders of the Houses in such a way that the priority attached to Government bills shall not prevent the exercise of the right to propose legislation under the terms laid down in Article 87.

2. Non-governmental bills which, in accordance with Article 87 are considered by the Senate, shall be referred to Congress for enactment.

Article 90

1. Once an ordinary or organic governmental bill has been passed by the Congress of Deputies, the Speaker of Congress shall immediately report on it to the Speaker of the Senate, who shall submit it to the latter for its consideration.

2. Within two months of receiving the text, the Senate may, by means of a considered opinion, veto it or introduce amendments. The veto must be passed by an absolute majority. The bill may not be submitted to the King for his assent unless, in the event of veto, Congress has ratified the initial text by an absolute majority (or by simple majority if two months have elapsed since its introduction), or has reached a decision relative to the amendments, accepting them or not by simple majority.

3. The period of two months allowed to the Senate for vetoing or amending a bill shall be reduced to twenty calendar days for bills declared by the Government or the Congress of Deputies to be urgent.

Legislative activities of the Senate

Article 91

The King shall, within a period of fifteen days, give his assent to the laws passed by the Cortes Generales, and shall promulgate them and order their immediate publication.

Sanction and promulgation of laws

Article 92

1. Political decisions of special importance may be submitted to all citizens in a consultative referendum.

2. The referendum shall be called by the King at the proposal of the President of the Government, following authorisation by the Congress of Deputies.

3. An organic law shall regulate the terms and procedures for the different kinds of referendum provided for in this Constitution.

Referendum

CHAPTER THREE

International Treaties

Article 93

By means of an organic law, authorisation may be granted for concluding treaties by which powers derived from the Constitution shall be vested in an international organisation or institution. It is incumbent on the Cortes Generales or the Government, as the case may be, to guarantee compliance with these treaties and with the resolutions emanating from the international and supranational organisations in which the powers have been vested.

International treaties

Article 94

1. Before contracting obligations by means of treaties or agreements, the State shall require the prior authorisation of the Cortes Generales in the following cases:

- a) treaties of a political nature;
- b) treaties or agreements of a military nature;

Authorisation of the Cortes for specific international treaties

- c) treaties or agreements affecting the territorial integrity of the State or the fundamental rights and duties established under Title I;
 - d) treaties or agreements which imply financial liabilities for the Public Treasury;
 - e) treaties or agreements which involve amendment or repeal of some law or require legislative measures for their execution.
2. Congress and the Senate shall be informed forthwith regarding the conclusion of other treaties or agreements.

Article 95

- 1. The conclusion of any international treaty containing stipulations contrary to the Constitution shall require prior Constitutional amendment.
- 2. The Government, or either of the Houses may request the Constitutional Court to declare whether or not there is a contradiction.

Article 96

- 1. Validly concluded international treaties, once officially published in Spain, shall form part of the internal legal order. Their provisions may only be repealed, amended or suspended in the manner provided in the treaties themselves or in accordance with the general rules of international law.
- 2. The same procedure shall be used for denouncing international treaties and agreements as that, provided in Article 94, for entering into them.

PART IV

Government and Administration

Article 97

The Government directs domestic and foreign policy, civil and military administration and the defence of the State. It exercises executive and statutory authority in accordance with the Constitution and the law.

Article 98

- 1. The Government consists of the President, Vice-Presidents, when applicable, Ministers and other members as may be created by law.
- 2. The President directs Government action and coordinates the functions of the other members thereof, without prejudice to the competence and direct responsibility of the latter in carrying out their duties.
- 3. Members of the Government may not exercise representative functions other than those derived from their Parliamentary mandate, nor any other public function not derived from their office, nor engage in any professional or commercial activity whatsoever.
- 4. The status and incompatibilities of the members of the Government shall be regulated by law.

International treaties and the Constitution

Repeals and denunciations of the treaties and agreements

The Government

Composition and status of the Government

Article 99

1. After renewal of the Congress of Deputies, and in other cases provided under the Constitution, the King, after consultation with the representatives appointed by the political groups with Parliamentary representation, and through the Speaker of Congress, shall nominate a candidate for President of the Government.

2. The candidate nominate in accordance with the provisions of the foregoing paragraph shall submit to the Congress of Deputies the political programme of the Government that he intends to form and shall seek the confidence of the Houses.

3. If the Congress of Deputies, by vote of the absolute majority of its members, invests said candidate with its confidence, the King shall appoint him President. If an absolute majority is not obtained, the same proposal shall be submitted for a new vote forty-eight hours after the previous vote, and it shall be considered that confidence has been secured if it passes by a simple majority.

4. If, after this vote, confidence for the investiture has not been obtained, successive proposals shall be voted upon in the manner provided in the foregoing paragraphs.

5. If within two months after the first vote for investiture no candidate has obtained the confidence of Congress, the King shall dissolve Congress and call new elections, following endorsement by the Speaker of Congress.

Appointment of the President of the Government

Vote of confidence

Article 100

The other members of the Government shall be appointed and dismissed by the King on the proposal of the President.

Appointment of the Ministers

Article 101

1. The Government shall resign after the holding of general elections, in the event of loss of Parliamentary confidence as provided in the Constitution, or on account of the resignation or death of the President.

2. The outgoing Government shall continue in power until the new Government takes office.

Cessation of the Government

Article 102

1. The President and other members of the Government shall be held criminally liable, should the occasion arise, before the Criminal Section of the Supreme Court.

2. If the charge is of treason or of any offence against the security of the State committed in the exercise of their office, it may only be brought on the initiative of one quarter of the members of Congress and with the approval of the absolute majority thereof.

3. The Royal prerogative of pardon shall not be applicable in any of the cases provided for under the present article.

Responsibility of the members of the Government

Article 103

1. The public Administration serves the general interest with objectivity and acts in accordance with the principles of efficiency, hierarchy, decentralisation, deconcentration and coordination, being fully subject to justice and the law.

Public Administration

Statute of civil servants

2. The organs of State Administration are created, directed and coordinated in accordance with the law.

3. The law shall regulate the status of civil servants, entry into the civil service in accordance with the principles of merit and ability, the special features of the exercise of their right to union membership, the system of incompatibilities, and guarantees regarding impartiality in the exercise of their duties.

Article 104

State Forces and Security Corps

1. The Security Forces and Corps serving under the Government shall have as their mission the protection of the free exercise of rights and liberties and the guaranteeing of the safety of citizens.

2. An organic law shall determine the duties, basic principles of action and statutes of the Security Forces and Corps.

Article 105

Citizen participation

The law shall regulate:

a) the hearing of citizens directly, or through the organisations and associations recognised by law, in the process of drawing up the administrative provisions which affect them;

b) the access of citizens to administrative files and records, except as they may concern the security and defence of the State, the investigation of crimes and the privacy of individuals:

c) the procedures for the taking of administrative action, guaranteeing the hearing of interested parties when appropriate.

Article 106

Judicial control of administration

1. The Courts control the power to issue regulations and to ensure that the rule of law prevails in administrative action, as well as to ensure that the latter is subordinated to the ends which justify it.

2. Private individuals shall, under the terms established by law, be entitled to compensation for any loss that they may suffer to their property or rights, except in cases of *force majeure*, whenever such loss is the result of the operation of public services.

Article 107

Council of State

The Council of State is the supreme consultative body of the Government. An organic law shall regulate its composition and competence.

PART V

Relations between the Government and the Cortes Generales

Responsibility of the Government before Parliament

Article 108

The Government is jointly accountable to the Congress of Deputies for its political management.

Article 109

The Houses and their Committees may, through their respective Speakers, request whatever information and help they may need from the Government and Government Departments and from any authorities of the State and of the Autonomous Communities.

**Right to
information of
the Houses**

Article 110

1. The Houses and their Commissions may summon members of the Government.

2. Members of the Government are entitled to attend meetings of the Houses and their Commissions and to be heard in them, and may request that officials from their Departments report to them.

**Government
in the Houses**

Article 111

1. The Government and each of its members are subject to interpellations and questions put to them in the Houses. The Standing Orders shall establish a minimum weekly period for this type of debate.

2. Any interpellation may give rise to a motion in which the House makes known its position.

**Interpellations
and Questions**

Article 112

The President of the Government, after deliberation by the Council of Ministers, may ask Congress for a vote of confidence in favour of his programme or of a general policy statement. Confidence shall be considered to have been obtained when a simple majority of the Deputies vote in favour.

**The matter of
confidence**

Article 113

1. The Congress of Deputies may challenge Government policy by passing a motion of censure by an absolute majority of its members.

2. The motion of censure must be proposed by at least one tenth of the Deputies, including a candidate for the office of President of the Government.

3. The motion of censure may not be voted on until five days after it has been submitted. During the first two days of this period, alternative motions may be submitted.

4. If the motion of censure is not passed by the Congress, its signatories may not submit another during the same session.

**Motion of
Censure**

Article 114

1. If Congress withholds its confidence from the Government, the latter shall submit its resignation to the King, whereafter a President of the Government shall be nominated in accordance with the provisions of Article 99.

2. If Congress passes a motion of censure, the Government shall submit its resignation to the King, while the candidate proposed in the motion of censure shall be considered to have the confidence of the House for the purposes provided in Article 99. The King shall appoint him or her President of the Government.

**Resignation of
the
Government**

Article 115

Dissolution of the Houses

1. The President of the Government, after deliberation by the Council of Ministers, and under his or her own exclusive responsibility, may propose the dissolution of Congress, the Senate or the Cortes Generales, which shall be decreed by the King. The decree of dissolution shall establish the date for the elections.

2. The proposal for dissolution may not be submitted while a motion for censure is pending.

3. There shall be no further dissolution until a year has elapsed since the previous one, except as provided for in Article 99, clause 5.

Article 116

State of alarm

1. An organic law shall regulate the states of alarm, emergency and siege (martial law) and the corresponding competences and limitations.

2. A state of alarm shall be declared by the Government, by means of a decree decided upon by the Council of Ministers, for a maximum period of fifteen days. The Congress of Deputies shall be informed and must meet immediately for this purpose. Without their authorisation the said period may not be extended. The decree shall specify the territorial area to which the effects of the proclamation shall apply.

State of emergency

3. A state of emergency shall be declared by the Government by means of a decree decided upon by the Council of Ministers, after prior authorisation by the Congress of Deputies. The authorisation for and declaration of a state of emergency must specifically state the effects thereof, the territorial area to which it is to apply and its duration, which may not exceed thirty days, subject to extension for a further thirty-day period, with the same requirements.

State of siege

4. A state of siege (martial law) shall be declared by absolute majority of the Congress of Deputies, exclusively at the proposal of the Government. Congress shall determine its territorial extension, duration and terms.

5. Congress may not be dissolved while any of the states referred to in the present article remain in operation, and if the Houses are not in session, they must automatically be convened. Their functioning, as well as that of the other constitutional State authorities, may not be interrupted while any of these states are in operation.

In the event that Congress has been dissolved or its term has expired, if a situation giving rise to any of these states should occur, the powers of Congress shall be assumed by its Standing Committee.

6. Proclamation of states of alarm, emergency and siege shall not modify the principle of liability of the Government or its agents as recognised in the Constitution and the law.

PART VI

Judicial Power

Article 117

Independence of justice

1. Justice emanates from the people and is administered on behalf of the King by Judges and Magistrates of the Judiciary who shall be independent, irremovable, and liable and subject only to the rule of law.

2. Judges and Magistrates may only be dismissed, suspended, transferred or retired on the grounds, and subject to the guarantees provided by law.

**Security of
tenure of
office of
Judges and
Magistrates**

3. The exercise of judicial authority in any kind of action, both in passing judgment and having judgments executed, lies exclusively within the competence of the Courts and Tribunals established by the law, in accordance with the rules of jurisdiction and procedure which may be established therein.

4. The Courts and Tribunals shall exercise only the powers indicated in the foregoing clause and those which are expressly allocated to them by law as a guarantee of some right.

5. The principle of jurisdictional unity is the basis of the organisation and operation of the Courts. The law shall regulate the exercise of military jurisdiction strictly within military limits and in cases of state of siege (martial law), in accordance with the principles of the Constitution.

**Jurisdictional
unity**

6. Courts of exception are prohibited.

Article 118

1. It is compulsory to execute the sentences and other final judgments of Judges and Courts, as well as to collaborate with them as they may require during the course of trials and execution of judgments.

**Collaboration
with justice**

Article 119

Justice shall remain free when thus provided by law, and shall in any case be so in respect to those who have insufficient means to litigate.

**Justice shall
remain free**

Article 120

1. Judicial proceedings shall be public, with the exception of those provided for in the laws of procedure.

2. Proceedings shall be predominantly oral, especially in criminal cases.

3. Judgments shall always contain the grounds therefore, and they shall be delivered in a public hearing.

**Publicity of
judicial
proceedings**

Article 121

Damages caused by judicial errors as well as those arising from irregularities in the administration of justice, shall be subject to compensation by the State, in accordance with the law.

**Damages for
judicial errors**

Article 122

1. The Organic Law of the Judiciary shall determine the setting up, operation and control of the Courts and Tribunals as well as the legal status of professional Judges and Magistrates, who shall form a single body, and of the staff serving in the administration of justice.

**Courts and
Tribunals**

2. The General Council of the Judiciary is its governing body. An organic law shall set up its statutes and the system of incompatibilities applicable to its members and their functions, especially in connection with appointments, promotions, inspection and the disciplinary system.

**General
Council of the
Judiciary**

3. The General Council of the Judiciary shall consist of the President of the Supreme Court, who shall preside it, and of twenty members appointed by the King for a five-year term, amongst whom shall be twelve judges and magistrates of all judicial categories, under the terms established by the organic law; four nominated by the Congress of Deputies and four by the Senate, elected in both cases by three-fifths of their members from amongst lawyers and other jurists of acknowledged competence and over fifteen years of professional experience.

Article 123

1. The Supreme Court, with jurisdiction over the whole of Spain, is the highest judicial body in all branches of justice, except with regard to the provisions concerning Constitutional guarantees.

2. The President of the Supreme Court shall be appointed by the King, on being proposed by the General Council of the Judiciary, in the manner to be established by the law.

Article 124

1. The Office of the Public Prosecutor, without prejudice to the functions entrusted to other bodies, has as its mission that of promoting the operation of justice in the defence of the rule of law, of citizens' rights and of the public interest as safeguarded by the law, whether ex officio or at the request of interested parties, as well as that of protecting the independence of the Courts and securing through them the satisfaction of social interest.

2. The Office of Public Prosecutor exercises its duties through its own bodies in accordance with the principles of unity of action and hierarchical dependency, subject in all cases to the principles of the rule of law and of impartiality.

3. The organic statute of the Office of the Public Prosecutor shall be regulated by law.

4. The State Public Prosecutor shall be appointed by the King on being nominated by the Government, after consultation with the General Council of the Judiciary.

Article 125

Citizens may engage in popular action and participate in the administration of justice through the institution of the Jury, in the manner and with respect to those criminal trials as may be determined by law, as well as in customary and traditional courts.

Article 126

The judicial police are answerable to the Judges, the Courts and the Public Prosecutor when exercising their duties of crime detection and the discovery and apprehension of criminals, under the terms to be established by the law.

Article 127

1. Judges and Magistrates, as well as Public Prosecutors, whilst actively in office, may not hold other public office nor belong to political

The Supreme Court

Public Prosecutor's Office

State Public Prosecutor

Establishment of the Jury

Judicial Police

Incompatibility of Judges, Magistrates and Public Prosecutors

parties or trade unions. The law shall lay down the system and methods of professional association for Judges, Magistrates and Prosecutors.

2. The law shall establish the system of incompatibilities for members of the Judiciary, which must ensure their total independence.

PART VII

Economy and Finance

Article 128

1. The entire wealth of the country in its different forms, irrespective of its ownership, is subordinate to the general interest.

2. Public initiative in economic activity is recognised. Essential resources or services may be restricted by law to the public sector, especially in the case of monopolies. Likewise, intervention in companies may be decided upon when the public interest so demands.

**Public
function of
wealth**

Article 129

1. The law shall establish the forms of participation in Social Security and in the activities of those public bodies whose operation directly affects the quality of life or the general welfare.

2. The public authorities shall efficiently promote the various forms of participation within companies and shall encourage cooperative societies by means of appropriate legislation. They shall also establish means to facilitate access by the workers to ownership of the means of production.

**Participation
in the
company and
in public
institutions**

Article 130

1. The public authorities shall attend to the modernisation and development of all economic sectors and, in particular, those of agriculture, livestock raising, fishing and handcrafts, in order to bring the standard of living of all Spaniards up to the same level.

2. With the same objective in view, special treatment shall be given to mountainous areas.

**Development
of the public
sector**

Article 131

1. The State, through the law, shall be able to plan general economic activity in order to meet collective needs, balance and harmonise regional and sectorial development and stimulate the growth of income and wealth and its more equitable distribution.

2. The Government shall draft planning projects in accordance with the forecasts supplied by the Autonomous Communities and the advice and collaboration of trade unions and other professional, business and financial organisations. A council shall be set up for this purpose, whose composition and duties shall be established by law.

**Planning of
economic
activity**

Article 132

1. The legal system governing public domain and community property shall be regulated by law, on the principle that they shall be inalienable and imprescriptible and not subject to attachment or encumbrance.

**Assets of
public domain**

2. The property of the State public domain shall be that established by law and shall, in any case, include coastal area, beaches, territorial waters and natural resources of the economic zone and the continental shelf.

3. The State and National Heritage, as well as their administration, protection and preservation, shall be regulated by law.

Article 133

1. The primary power to raise taxes is vested exclusively in the State by law.

2. The Autonomous Communities and local Corporations may establish and levy taxes, in accordance with the Constitution and the law.

3. Any fiscal benefit affecting State taxes must be established by virtue of law.

4. Public Administrations may only contract financial liabilities and incur expenditures in accordance with the law.

Article 134

1. It is incumbent upon the Government to prepare the State Budget and upon the Cortes Generales to examine, amend and approve it.

2. The State Budget shall be prepared annually and shall include the entire expenditure and income of the State public sector and in it shall be recorded the amount of the fiscal benefits affecting State taxes.

3. The Government must submit the State Budget to the Congress of Deputies at least three months before the expiration of that of the previous year.

4. If the Budget Law is not passed before the first day of the corresponding financial year, the budget of the previous financial year shall be considered automatically extended until the new one has been approved.

5. Once the State Budget has been approved, the Government may submit bills involving increases in public expenditure or decreases in the revenue corresponding to the same financial year.

6. Any non-governmental bill or amendment which involves an increase in credits or a decrease in budget revenue shall require previous approval by the Government before its passage.

7. The Budget Law may not establish new taxes. It may modify them if a substantive tax law makes provision therefore.

Article 135

1. All Public Administrations shall adapt their actions to the principle of budgetary stability.

2. Neither the State nor the Autonomous Communities shall enter into a structural deficit beyond the limits stipulated, if applicable, by the European Union for its Member States.

An organic law shall set the structural deficit ceiling allowed for the State and for the Autonomous Communities according to their Gross Domestic Product. Local Authorities shall present a balanced budget.

Tax authority

The State Budget

Budgetary stability

3. The State and the Autonomous Communities shall have to be authorised by law to issue public debt or to enter into borrowing commitments.

Loans to cover the interest and capital of the Administrations' public debt shall always be understood to be included in the expenditure statement of their budgets and repayment of the same shall be awarded utmost priority. These loans may not be amended or modified provided that they comply with the conditions set forth in the issue law.

The volume of public debt for all the Public Administrations as a whole as a ratio of the State's Gross Domestic Product shall not surpass the benchmark figure set forth in the Treaty on the Functioning of the European Union.

4. Ceilings on structural deficit and public debt volume may only be overrun in the event of natural catastrophes, economic recession or situations of extraordinary emergency which are beyond the State's control and considerably harm the State's financial situation or its economic or social sustainability, recognised as such by the absolute majority of the Congress of Deputies.

5. An organic law shall develop the principles referred to in this article, together with the involvement, in the respective procedures, of the bodies for institutional co-ordination between Public Administrations on fiscal and financial policy matters. It shall, in any event, regulate:

a) The distribution of the deficit and debt ceilings between the various Public Administrations, the exceptional cases in which said ceilings may be overrun and the way and term in which the possible deviations over one or other ceiling shall be corrected.

b) The methodology and procedure for calculating structural deficit.

c) The liability of each Public Administration in the event of a breach of budgetary stability targets.

6. In accordance with their respective Statutes and within the limits referred to in this article, the Autonomous Regions shall adopt the appropriate provisions to ensure effective application of the principle of stability in their budgetary regulations and decisions.

Article 136

1. The Court of Audit is the supreme body in charge of auditing State accounts and financial management, as well as those of the public sector.

It shall be directly answerable to the Cortes Generales and shall exercise its duties by delegation of the latter when examining and verifying the General Accounts of the State.

2. The State Accounts and those of the State public sector shall be submitted to the Court of Audit and shall be audited by the latter.

The Court of Audit, without prejudice to its own jurisdiction, shall remit an annual report to the Cortes Generales in which it shall, when applicable, inform the latter of any infringements that may, in its opinion, have been committed, or any liabilities that may have been incurred.

3. The members of the Court of Audit shall enjoy the same independence and protection from dismissal and shall be subject to the same incompatibilities as judges.

4. An organic law shall regulate the composition, organisation and duties of the Court of Audit.

PART VIII

Territorial Organisation of the State

CHAPTER ONE

General Principles

Article 137

Municipalities, provinces and Autonomous Communities

The State is organised territorially into municipalities, provinces and Autonomous Communities that may be constituted. All these bodies shall enjoy self-government for the management of their respective interests.

Article 138

Solidarity and territorial equality

1. The State guarantees the effective implementation of the principle of solidarity vested in Article 2 of the Constitution, safeguarding the establishment of a just and adequate economic balance between the different areas of Spanish territory and taking into special consideration the circumstances pertaining to those which are islands.

2. The differences between the Statutes of the different Autonomous Communities may in no case imply economic or social privileges.

Article 139

Equality of Spaniards in State territories

1. All Spaniards have the same rights and obligations in any part of the State territory.

2. No authority may adopt measures which directly or indirectly obstruct freedom of movement and settlement of persons and free movement of goods throughout the Spanish territory.

CHAPTER TWO

Local Government

Article 140

Autonomy and municipal democracy

The Constitution guarantees the autonomy of the municipalities, which shall enjoy full legal personality. Their government and administration shall be incumbent on their respective Town Councils, consisting of Mayors and Councillors. The Councillors shall be elected by the residents of the municipalities by universal, equal, free and secret suffrage, in the manner laid down by the law. The Mayors shall be elected by ten Councillors or by the residents. The law shall regulate the terms under which an open council system shall be applicable.

Article 141

The provinces. The islands

1. The province is a local entity, with its own legal personality, determined by the grouping of municipalities and by territorial division, in order to carry out the activities of the State. Any alteration of the provincial boundaries must be approved by the Cortes Generales by means of an organic law.

2. The government and autonomous administration of the provinces shall be entrusted to Provincial Councils («Diputaciones») or other Corporations that are representative in character.

3. Groups of municipalities other than those of the provinces may be formed.

4. In the archipelagos, the islands shall also have their own government in the form of «Cabildos» or Councils.

Article 142

Local treasuries must have sufficient funds available in order to perform the tasks assigned by law to the respective Corporations, and shall mainly be financed by their own taxation as well as by their share of State taxes and those of the Autonomous Communities.

Local Treasuries

CHAPTER THREE

Autonomous Communities

Article 143

1. In the exercise of the right to self-government recognised in Article 2 of the Constitution, bordering provinces with common historic, cultural and economic characteristics, island territories and provinces with historic regional status may accede to self-government and form Autonomous Communities in accord with the provisions contained in this Title and in the respective Statutes.

Self-government of the Autonomous Communities

2. The right to initiate the process towards self-government lies with the Provincial Councils concerned or with the corresponding inter-island body and with two-thirds of the municipalities whose populations represent at least the majority of the electorate of each province or island. These requirements must be met within six months from the initial agreement to this effect reached by any of the local Corporations concerned.

Autonomous initiative

3. If this initiative should not be successful, it may only be repeated after five years have elapsed.

Article 144

The Cortes Generales may, in the national interest, and by means of an organic law:

a) authorise the setting up of an Autonomous Community provided that its territorial area does not exceed that of a province and that it does not possess the characteristics outlined in clause 1 of Article 143;

b) authorise or grant, as the case may be, a Statute of Autonomy for territories not forming part of the provincial organisation;

c) take over the initiative of the local Corporations referred to in clause 2 of Article 143.

Article 145

1. Under no circumstances shall the federation of Autonomous Communities be allowed.

2. The Statutes may provide for the circumstances, requirements and terms under which the Autonomous Communities may reach agreements amongst themselves for management and the rendering

Cooperation between the Autonomous Communities

of services in matters pertaining to them, as well as the nature and effects of the consequent communication to the Cortes Generales. In all other cases, cooperation agreements between the Autonomous Communities shall require the authorisation of the Cortes Generales.

Article 146

The draft Statute shall be drawn up by an assembly consisting of the members of the Provincial Council or inter-island body of the provinces concerned and by the Deputies and Senators elected in them, and shall be sent to the Cortes Generales for its enactment into law.

Article 147

1. Within the terms of the Constitution, the Statutes shall constitute the basic institutional rules of each Autonomous Community and the State shall recognise and protect them as an integral part of its legal order.

2. The Statutes of Autonomy must contain:

- a) the name of the Community which corresponds most closely to its historic identity;
- b) its territorial boundaries;
- c) the name, organisation and seat of its own autonomous institutions;
- d) the powers assumed within the framework established by the Constitution and the basic conditions for the transfer of the services corresponding to them.

3. Amendment of the Statutes shall conform to the procedure established therein and shall in any case require the approval of the Cortes through an organic law.

Article 148

1. The Autonomous Communities may assume competences over the following matters:

- i) organisation of their institutions of self-government;
- ii) changes in the municipal boundaries within their territory and, in general, the functions appertaining to the State Administration regarding local Corporations, whose transfer may be authorised by legislation on local government;
- iii) town and country planning and housing;
- iv) public works of benefit to the Autonomous Community, within its own territory;
- v) railways and roads whose routes lie exclusively within the territory of the Autonomous Community and transport by the above means or by cable which also fulfils the same conditions;
- vi) ports of haven, recreational ports and airports and, in general, those which are not engaged in commercial activities;
- vii) agriculture and livestock raising, in accordance with general economic planning;
- viii) woodlands and forestry;
- ix) environmental protection management;

The drawing up of Statutes

The Autonomous Statutes

Amendment of the Autonomous Statutes

Competences of the Autonomous Communities

- x) planning, construction and operation of hydraulic projects, canals and irrigation of benefit to the Autonomous Community; mineral and thermal waters;
 - xi) inland water fishing, the shellfish industry and aquaculture, shooting and river fishing;
 - xii) local fairs;
 - xiii) promotion of the economic development of the Autonomous Community within the objectives set by national economic policy;
 - xiv) handicrafts;
 - xv) museums, libraries and music conservatories of interest to the Autonomous Community;
 - xvi) the Autonomous Communities monuments of interest;
 - xvii) the promotion of culture, of research and, when applicable, the teaching of the language of the Autonomous Community;
 - xviii) the promotion and planning of tourism within its territorial area;
 - xix) the promotion of sports and the proper use of leisure;
 - xx) social assistance;
 - xxi) health and hygiene;
 - xxii) the supervision and protection of its buildings and facilities;
- coordination and other powers relating to local police forces under the terms to be laid down by an organic law.

2. After five years have elapsed, the Autonomous Communities may, by amendment of their Statutes, successively expand their powers within the framework established in Article 149.

Article 149

1. The State holds exclusive competence over the following matters;
- i) regulation of the basic conditions guaranteeing the equality of all Spaniards in the exercise of their rights and in the fulfilment of their constitutional duties;
 - ii) nationality, immigration, emigration, status of aliens, and right to asylum;
 - iii) international relations;
 - iv) defence and the Armed Forces;
 - v) administration of Justice;
 - vi) commercial, criminal and penitentiary legislation; procedural legislation, without prejudice to the necessary special applications in these fields derived from the peculiar features of the substantive law of the Autonomous Communities;
 - vii) labour legislation without prejudice to its execution by the bodies of the Autonomous Communities;
 - viii) civil legislation, without prejudice to the preservation, modification and development by the Autonomous Communities of their civil laws, «fueros» or special laws, whenever these exist; in any event the enactments related to the application and effectiveness of legal provisions, legalcivil relations arising from the form of marriage. The keeping of records and drawing up of public instruments, bases of contractual obligations, rules for resolving legal conflicts and determination of the sources of law in conformity, in this last case, with the rules of the «fueros» or with those of special laws.

**Exclusive
competences
of the State**

- ix) legislation on intellectual and industrial property;
- x) customs and tariff regulations; foreign trade;
- xi) monetary system: foreign currency, exchange and convertibility; bases for the regulations concerning credit, banking and insurance;
- xii) legislation on weights and measures, determination of the official time;
- xiii) bases and coordination of general planning of economic activity;
- xiv) general finances and the State Debt;
- xv) promotion and general coordination of scientific and technical research;
- xvi) external health measures; bases and general coordination of health matters; legislation on pharmaceutical products;
- xvii) basic legislation and financial system of the Social Security, without prejudice to the implementation of its services by the Autonomous Communities;
- xviii) the bases of the legal system of Public Administration and the statutes of their public officials which shall, in any case, guarantee that all persons under said administration will receive equal treatment; the common administrative procedure, without prejudice to the special features of the Autonomous Community's own organisations; legislation on compulsory expropriation; basic legislation on contracts and administrative concessions and the system of liability of all Public Administrations;
- xix) sea fishing, without prejudice to the powers which, in the regulations governing this sector, shall be conferred on the Autonomous Communities;
- xx) merchant navy and the registering of ships; lighting of coasts and signals at sea; general purpose ports; general-purpose airports; control of air space, air traffic and transport; meteorological services and registration of aircraft;
- xxi) railways and land transport passing through the territory of more than one Autonomous Community; general system of communications; motor vehicle traffic; Post Office services and telecommunications; air and underwater cables and radio communications;
- xxii) legislation, regulation and concession of hydraulic resources and development when the waters flow through more than one Autonomous Community, and authorisation for hydro-electrical installations when their development affects another Community or when energy transport goes beyond its territorial area;
- xxiii) basic legislation on environmental protection, without prejudice to the powers of the Autonomous Communities to establish additional protective measures; basic legislation on woodlands, forestry, and livestock trails;
- xxiv) public works of general benefit or whose execution affects more than one Autonomous Community;
- xxv) bases of the organisation of mining and energy;
- xxvi) system of production, sale, possession and use of arms and explosives;
- xxvii) basic rules relating to the organisation of the press, radio and television and, in general, all the means of social communication, without prejudice to the powers vested in the Autonomous Communities related to their development and implementation;

xxviii) protection of Spain's cultural and artistic heritage and national monuments against exportation and despoliation; museums, libraries and archives belonging to the State, without prejudice to their management by the Autonomous Communities;

xxix) public safety, without prejudice to the possibility of the creation of police forces by the Autonomous Communities, in the manner to be laid down in their respective Statutes and within the framework to be established by an organic law;

xxx) regulation of the conditions relative to the obtaining, issuing and standardisation of academic degrees and professional qualifications and basic rules for the development of Article 27 of the Constitution, in order to guarantee the fulfilment of the obligations of the public authorities in this matter;

xxxii) statistics for State purposes;

xxxii) authorisation for popular consultations through the holding of referendums.

2. Without prejudice to the jurisdiction which may be assumed by the Autonomous Communities, the State shall consider the promotion of culture a duty and an essential function and shall facilitate cultural communication between the Autonomous Communities, in collaboration with them.

3. Matters not expressly assigned to the State by virtue of the present Constitution may fall under the jurisdiction of the Autonomous Communities by virtue of their respective Statutes. Matters for which jurisdiction has not been assumed by the Statutes of Autonomy shall fall within the jurisdiction of the State, whose laws shall prevail, in case of conflict, over those of the Autonomous Communities regarding all matters over which exclusive jurisdiction has not been conferred upon the latter. State law shall, in all cases, be supplementary to that of the Autonomous Communities.

Article 150

1. The Cortes Generales, in matters of State competence, shall confer upon all or any of the Autonomous Communities the power to enact legislation for themselves within the framework of the principles, bases and guidelines established by State law. Without prejudice to the competence of the Courts, each basic law shall contain the method of control by the Cortes Generales over the Autonomous Communities' legislation.

2. The State may transfer or delegate to the Autonomous Communities, through an organic law, powers appertaining to it which by their very nature lend themselves to transfer or delegation. The law shall, in each case, provide for the appropriate transfer of financial means, as well as specify the forms of control to be retained by the State.

3. The State may enact laws establishing the principles necessary for harmonising the rule-making provisions of the Autonomous Communities, even in the case of matters over which jurisdiction has been conferred upon the latter, when this is necessary in the general interest. It is incumbent upon the Cortes Generales, by an absolute majority of the members of each House, to evaluate this necessity.

**State Service
to Culture**

**Coordination
of legislative
powers**

Writing of the State in special regime

Article 151

1. It shall not be necessary to wait for the five-year period referred to in clause 2 of Article 148 to elapse when the initiative for attaining self-government is agreed upon within the time limit specified in Article 143, clause 2, not only by the corresponding Provincial Councils or inter-island bodies but also by three-quarters of the Municipalities of each province concerned, representing at least the majority of the electorate of each one, and said initiative is ratified in a referendum by the absolute majority of the electors in each province, under the terms to be laid down by an organic law.

2. In the case provided for in the foregoing clause, the procedure for drafting the Statute shall be as follows:

i) The Government shall summon all the Deputies and Senators elected in the electoral districts within the territorial area seeking self-government in order that they may constitute themselves into an Assembly for the sole purpose of drawing up the corresponding draft Statute for Autonomy, to be passed by the absolute majority of its members.

ii) Once the draft Statute has been passed by the Parliamentary Assembly, it shall be remitted to the Constitutional Committee of Congress which shall examine it within a period of two months with the cooperation and assistance of a delegation from the Assembly which has proposed it, in order to decide in common agreement upon its definitive formulation.

iii) If such an agreement is reached, the resulting text shall be submitted in a referendum to the electorate of the provinces within the territorial area to be covered by the proposed Statute.

iv) If the draft Statute is approved in each province by the majority of validlycast votes, it shall be referred to the Cortes Generales. Both Houses, in plenary assembly, shall decide upon the text by means of a vote of ratification. Once the Statute has been passed, the King shall sanction it and shall promulgate it as a law.

v) If the agreement referred to in sub-clause ii) of this clause is not reached, the legislative process for the draft Statute in the Cortes Generales shall be the same as that for a bill. The text passed by the latter shall be submitted in a referendum to the electorate of the provinces within the territorial area to be covered by the draft Statute. In the event that it is passed by the majority of the validlycast votes in each province, it shall be promulgated in the manner outlined in the foregoing sub-clause.

3. In the cases described in subclauses iv) and v) of the foregoing clause, failure to pass the draft Statute by one or several of the provinces shall not prevent the incorporation of the remaining provinces into an Autonomous Community in the manner to be prescribed by the organic law envisaged in clause 1 of this article.

Article 152

1. In the case of Statutes passed by means of the procedure referred to in the foregoing article, the institutional Autonomous organisation shall be based on a Legislative Assembly elected by universal suffrage in accordance with a system of proportional representation which shall ensure, moreover, the representation of the various

Bodies of the Autonomous Communities

areas of the territory; a Governing Council with executive and administrative functions and a President elected by the Assembly from among its members and appointed by the King. The President shall be responsible for directing the Governing Council, which constitutes the supreme representation of the respective Community as well as the State's ordinary representation in the latter. The President and the members of the Governing Council shall be politically accountable to the Assembly.

A High Court of Justice, without prejudice to the jurisdiction exercised by the Supreme Court, shall head the Judiciary within the territorial area of the Autonomous Community. The Statutes of the Autonomous Communities shall establish the circumstances and manner in which they will participate in the organisation of the judicial demarcations of the territory, all of which must be in conformity with the provisions of the organic law on judicial power and compatible with its unity and independence.

Without prejudice to the provisions of Article 123, successive proceedings, if any, shall be held before judicial bodies located in the same territory of the Autonomous Community as that in which the competent Court of the First Instance is located.

2. Once the respective Statutes have been sanctioned and promulgated, they may only be amended by means of the procedures established therein and through a referendum of the electors registered in the corresponding electoral rolls.

3. By grouping the bordering municipalities together, the Statutes may set up their own territorial electoral districts, which will enjoy full legal personality.

Article 153

Control over the bodies of the Autonomous Communities shall be exercised by:

- a) the Constitutional Court, in matters related to the constitutionality of its regulatory provisions having the force of law;
- b) the Government, after the handing down by the Council of State of its opinion, regarding the exercise of the delegated functions referred to in clause 2 of Article 150;
- c) administrative litigation jurisdictional bodies, with regard to autonomous administration and its regulations;
- d) the Court of Audit, with regard to financial and budgetary matters.

Article 154

A delegate appointed by the Government shall direct State administration in the territorial area of each Autonomous Community and shall coordinate it, when necessary, with the Community's own administration.

Article 155

1. If an Autonomous Community does not fulfil the obligations imposed upon it by the Constitution or other laws, or acts in a way seriously prejudicing the general interests of Spain, the Government, after lodging a complaint with the President of the Autonomous Community and failing to receive satisfaction therefore, may, following approval granted by an absolute majority of the Senate, take the

Control of the bodies of the Autonomous Communities

Government Delegate in the Autonomous Communities

measures necessary in order to compel the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interests.

2. With a view to implementing the measures provided in the foregoing clause, the Government may issue instructions to all the authorities of the Autonomous Communities.

Article 156

1. The Autonomous Communities shall enjoy financial autonomy for the development and exercising of their powers, in conformity with the principles of coordination with the State Treasury and solidarity amongst all Spaniards.

2. The Autonomous Communities may act as delegates or collaborators of the State for the collection, management and settlement of the latter's tax resources, in conformity with the law and the Statutes.

Article 157

1. The resources of the Autonomous Communities shall consist of:

- a) taxes wholly or partially assigned to them by the State; surcharges on State taxes and other shares in State revenue;
- b) their own taxes, rates and special levies;
- c) transfers from an inter-territorial clearing fund and other allocations to be charged to the State Budget;
- d) revenues accruing from their property and private law income;
- e) the yield from credit operations.

2. The Autonomous Communities may under no circumstances introduce measures to raise taxes on property located outside their territory or likely to hinder the free movement of goods or services.

3. The exercise of the financial powers enumerated in clause 1. above, the rules for settling conflicts which may arise, and the possible forms of financial collaboration between the Autonomous Communities and the State, may be regulated by an organic law.

Article 158

1. In the State Budget, an allocation may be made to the Autonomous Communities in proportion to the volume of State services and activities for which they have assumed responsibility and to their guarantee to provide a minimum level of basic public services throughout Spanish territory.

2. With the object of correcting inter-territorial economic imbalances and implementing the principle of solidarity, a clearing fund shall be set up for investment expenditure, the resources of which shall be distributed by the Cortes Generales amongst the Autonomous Communities and the provinces, as the case may be.

PART IX

Constitutional Court

Article 159

1. The Constitutional Court shall consist of twelve members appointed by the King. Of these, four shall be nominated by Congress

Financial Autonomy of the Autonomous Communities

Resources of the Autonomous Communities

Inter- territorial Clearing Fund

The Constitutional Court

by a majority of three-fifths of its members, four shall be nominated by the Senate with the same majority, two shall be nominated by the Government, and two by the General Council of the Judiciary.

2. The members of the Constitutional Court shall be appointed from amongst Magistrates and Prosecutors, University professors, public officials and lawyers, all of whom must be jurists of recognised standing with at least fifteen years' experience in the professional exercise.

3. The members of the Constitutional Court shall be appointed for a period of nine years and shall be renewed by thirds every three years.

4. Membership of the Constitutional Court is incompatible with: any representative function, any political or administrative office, a management role in a political party or trade union or any employment in their service, a career as a Judge or Prosecutor, and any professional or commercial activity whatsoever.

Furthermore, the disabilities related to the members of the Judiciary shall also be applicable to the members of the Constitutional Court.

5. The members of the Constitutional Court shall be independent and irremovable during their term of office.

Article 160

The President of the Constitutional Court shall be appointed by the King from amongst its members, on the recommendation of the Plenum of the Court itself, for a term of three years.

**President of the
Constitutional
Court**

Article 161

1. The Constitutional Court has jurisdiction over the whole of Spanish territory and is competent to hear:

a) appeals against the alleged unconstitutionality of laws and regulations having the force of law. A declaration of unconstitutionality of a legal provision with the force of law, interpreted by jurisprudence, shall also affect the latter, although the overturned sentence or sentences shall not lose their status of *res judicata*.

b) individual appeals for protection («recursos de amparo») against violation of the rights and liberties contained in Article 53.2 of the Constitution, in the circumstances and manner to be laid down by law;

c) conflicts of jurisdiction between the State and the Autonomous Communities or amongst the Autonomous Communities themselves;

d) other matters assigned to it by the Constitution or by organic laws.

2. The Government may contest before the Constitutional Court the provisions and resolutions adopted by the agencies of the Autonomous Communities, which shall bring about the suspension of the contested provisions or resolutions, but the Court must either ratify or lift the suspension, as the case may be, within a period of not more than five months.

**Power of the
Constitutional
Court**

Article 162

1. The following are eligible to:

a) lodge an appeal against unconstitutionality: the President of the Government, the Ombudsman, fifty Deputies, fifty Senators, the executive corporate bodies of the Autonomous Communities and, when applicable, their Assemblies;

**Appeal on the
grounds of
unconstitutionality**

b) lodge an individual appeal for protection («recurso de amparo»): any individual or corporate body with a legitimate interest, as well as the Ombudsman and the Office of the Public Prosecutor.

2. In all other cases, the organic law shall determine which persons and bodies are eligible.

Article 163

If a judicial body considers, in some action, that a regulation with the status of law which is applicable thereto, and upon the validity of which the judgment depends, may be contrary to the Constitution, it may bring the matter before the Constitutional Court in the circumstances, manner and subject to the consequences to be laid down by law, which shall in no case be suspensive.

Article 164

1. The judgments of the Constitutional Court shall be published in the Official State Gazette (Boletín Oficial del Estado), with the dissenting votes, if any. They have the validity of *res judicata* from the day following their publication, and no appeal may be brought against them. Those which declare the unconstitutionality of a law or of a rule with the force of law, and all those which are not limited to the subjective acknowledgment of a right, shall be fully binding on all persons.

2. Unless the judgement rules otherwise, that part of the law not affected by unconstitutionality shall remain in force.

Article 165

An organic law shall regulate the functioning of the Constitutional Court, the statutes of its members, the procedure to be followed before it, and the conditions governing actions brought before it.

PART X

Constitutional amendment

Article 166

The right to propose a Constitutional amendment shall be exercised under the terms contained in clauses 1 and 2 of Article 87.

Article 167

1. Bills on Constitutional amendment must be approved by a majority of three-fifths of the members of each House. If there is no agreement between the Houses, an effort to reach it shall be made by setting up a Joint Commission of Deputies and Senators which shall submit a text to be voted on by the Congress and the Senate.

2. If approval is not obtained by means of the procedure outlined in the foregoing clause, and provided that the text has been passed by an absolute majority of the members of the Senate, Congress may pass the amendment by a two-thirds vote in favour.

3. Once the amendment has been passed by the Cortes Generales, it shall be submitted to ratification by referendum, if so requested by one tenth of the members of either House within fifteen days after its passage.

Sentences of the Constitutional Court

Constitutional amendment

Article 168

1. If a total revision of the Constitution is proposed, or a partial revision thereof, affecting the Preliminary Title, Chapter Two, Section 1 of Title I, or Title II, the principle shall be approved by a two-thirds majority of the members of each House, and the Cortes shall immediately be dissolved.

2. The Houses elected must ratify the decision and proceed to examine the new Constitutional text, which must be approved by a two-thirds majority of the members of both Houses.

3. Once the amendment has been passed by the Cortes Generales, it shall be submitted to ratification by referendum.

Essential reforms to the Constitution

Article 169

The process of Constitutional amendment may not be initiated in time of war or when any of the states outlined in Article 116 are in operation.

ADDITIONAL PROVISIONS

One

The Constitution protects and respects the historic rights of the territories with «fueros» (local laws).

The general updating of the «fuero» system shall be carried out, when appropriate, within the framework of the Constitution and of the Statutes of Autonomy.

Historical rights of the autonomous territories

Two

The declaration regarding coming of age contained in Article 12 of this Constitution shall not be prejudicial to the cases to which the «fueros» are applicable within the sphere of Private Law.

Three

Any modification of the financial and tax system of the Canary Islands Archipelago shall require a previous report from the Autonomous Community or, as the case may be, from the provisional autonomous body.

Economic and tax regime of the Canary Islands

Four

In the Autonomous Communities where more than one Territorial Court holds jurisdiction, the Statutes of Autonomy may maintain the existing Courts, distributing jurisdiction among them, provided this is done in accordance with the provisions of the Organic Law on Judicial Power and in conformity with the unity and independence of the latter.

INTERIM PROVISIONS

One

In the territories with a provisional Autonomous regime, their higher corporate bodies may, by means of a resolution passed by an absolute majority of their members, assume for themselves the initiative towards autonomy which, in clause 2 of Article 143 is conferred upon the Provincial Councils or corresponding inter-island bodies.

Initiative of writing the Statute of Autonomy by the pre-autonomous bodies

Two

The territories which in the past have, by plebiscite, approved draft Statutes of Autonomy and which at the time of the promulgation of this Constitution, have provisional autonomous regimes, may proceed immediately in the manner provided in clause 2 of Article 148, when agreement to do so is reached by an absolute majority of their pre-autonomous higher corporate bodies, and the Government is duly informed. The draft Statutes shall be drawn up in accordance with the provisions of Article 151, clause 2, when so requested by the pre-autonomous corporate body.

Three

The right to initiate the process towards autonomy conferred on the local corporations or their members, which is contained in clause 2 of Article 143, shall be postponed for all purposes until the first local elections have taken place, once the Constitution has come into force.

Four

1. In the case of Navarra, and for the purposes of its incorporation into the General Basque Council or the Basque autonomous regime replacing it, instead of the procedure established by the provisions of Article 143 of the Constitution, the initiative shall lie with the competent «Foral» body, which shall take its decision by a majority of the member comprising it. In order for this initiative to be valid, the decision of the competent «Foral» body must also be ratified by a referendum expressly held for this purpose and passed by a majority of the valid votes cast.

2. If the initiative does not succeed, it may only be repeated during a different term of office of the competent «Foral» body and, in any case, only when the minimum period laid down in Article 143 has elapsed.

Five

The cities of Ceuta and Melilla may set themselves up as Autonomous Communities if their respective Municipal Councils should so decide by means of a resolution adopted by an absolute majority of their members and if the Cortes Generales so authorise, in an organic law, under the terms provided in Article 144.

Six

When several draft Statutes are referred to the Constitutional Committee of Congress, they shall be considered in the order according to which they are received. The two month period referred to in Article 151 shall be counted from the moment that the Committee completes its study of the draft or drafts that it has successively examined.

Seven

The provisional autonomous bodies shall be considered to be dissolved in the following cases:

a) once the bodies established by the Statutes of Autonomy passed in conformity with the Constitution have been set up;

Navarra

Ceuta and Melilla

Dissolution of the provisional autonomous bodies

b) in the event that the initiative directed towards obtaining autonomy should not be successful on account of non-compliance with the requirements provided in Article 143;

c) if the body has not exercised the right recognised in the first interim provision within a period of three years.

Eight

1. Once the present Constitution has become effective, the Houses which adopted it shall assume the functions and powers indicated therein for the Congress and Senate respectively, while under no circumstances shall their term of office continue beyond June 15, 1981.

2. With regard to the provisions of Article 99, the promulgation of the Constitution shall be considered as creating the Constitutional basis for the subsequent application of these provisions. To this end, there shall be a thirty-day period, as from the date of the promulgation, for implementing the provisions contained in said article.

During this period, the current President of the Government who shall assume the functions and powers laid down by the Constitution for this office, may decide to use the authority conferred on him by Article 115 or, through resignation, leave the way open for application of the provisions established in Article 99. In the latter case, the situation related to the President shall be that provided in clause 2 of Article 101.

3. In the event of dissolution, in accordance with the provisions of Article 115, and if the provisions contained in Article 68 and 69 have not been enacted into law, the rules previously in force shall be applicable in the elections, except with regard to ineligibilities and incompatibilities, to which the provisions of the second subclause b) of clause 1 of Article 70 of the Constitution shall be directly applicable, as well as its provisions concerning the voting age and those contained in Article 69, clause 3.

Nine

Three years after the election of the members of the Constitutional Court for the first time, lots shall be drawn to choose a group of four members of the same electoral origin who are to resign and be replaced. The two members appointed following proposal by the Government and the two appointed following proposal by the General Council of Judicial Power shall be considered as members of the same electoral origin exclusively for this purpose. After three years have elapsed, the same procedure shall be carried out with regard to the two groups not affected by the aforementioned drawing of lots. Thereafter, the provisions contained in clause 3 of Article 159 shall be applied.

REPEALS

1. Law/1977, of January 4, for political reform, is hereby repealed, as well as the following laws, in so far as they were not already repealed by the abovementioned law: the Law of the Fundamental Principles of the Movement of May 17, 1958, the «Fuero» of the Spanish People of July 17, 1945, the Labour «Fuero» of March 9, 1938, the Law of Constitution of the Cortes of July 17, 1942, the Law of Succession of Chief of State of July 26, 1947, all of which as amended by the Organic

**The current
Parliament
and the
Government
after approval
of the
Constitution**

**First reforms
of the
Constitutional
Court**

**Repeal of the
Fundamental
Laws**

Repeal of the laws dated 25 October 1839 and 21 July 1876

Law of State of January 10, 1967. Likewise repealed are the last mentioned law and that of the National Referendum of October 22, 1948.

2. To the extent that it may still retain some validity, the Law of October 25, 1839 shall be definitively repealed in so far as it affects the provinces of Alava, Guipuzcoa and Vizcaya.

Subject to the same terms, the Law of July 21, 1876 shall be considered to be definitively repealed.

3. Likewise, any provisions contrary to those contained in the Constitution shall be repealed.

FINAL PROVISION

This Constitution shall become effective on the day of the publication of the official text in the «Official State Gazette» (Boletín Oficial del Estado). It shall also be published in the other languages of Spain.

WHEREFORE

WE ORDER ALL SPANIARDS, WHETHER INDIVIDUALS OR AUTHORITIES, TO ABIDE BY THIS CONSTITUTION AND ENSURE THAT IT IS OBSERVED AS A FUNDAMENTAL LAW OF THE STATE.

PALACIO DE LAS CORTES, THE TWENTY-SEVENTH OF DECEMBER OF NINETEEN HUNDRED AND SEVENTY-EIGHT.

JUAN CARLOS