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# Chile's Draft Constitution of 2018

Draft of 5 Mar 2018

*The outgoing government of Chile issued this text towards the end of its term in office in 2018 but it was never passed. We provide it as a point of reference in the ongoing discussion in Chile over constitutional reform.*

This complete constitution has been generated from excerpts of texts from the repository of the Comparative Constitutions Project, and distributed on [constituteproject.org](https://constituteproject.org).

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## Preamble

We the people of Chile, responsible for her history and future, have drafted this Political Constitution of the Republic of Chile. We have done so in a free and democratic way, exercising the original constituent power that we possess. The goal of this solemn act is to live in peace, justice, and prosperity within our borders and to coexist with all countries and peoples of the world, promoting and respecting the dignity, liberty, equality, solidarity and the fundamental rights of all human beings.

## Chapter I: Bases of Institutionality

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### Article 1

All human beings are born free and equal in dignity and rights.

The dignity of a human being is inviolable. The State is obligated to respect and protect the dignity of human beings, just as all people and the diverse forms in which they associate are obligated to as well.

The family, in its diverse forms, is the fundamental nucleus of society.

### Article 2

The Republic of Chile is a State of democratic and social laws. Its territorial organization is unitary. Its administration is decentralized, allowing for the adoption of other modalities as allowed by the law.

### Article 3

The State is at the service of the people and its goal is the common good, for which it must create the necessary conditions for the sustainable development of the whole community and its members, clearly respecting the rights and guarantees consecrated within the Constitution with financial responsibility.

The State recognizes, protects, and promotes intermediate groups through which society is organized and structured; the State grants these organizations autonomy to accomplish their own specific goals, within the bounds established by the Constitution.

It is the responsibility of the State to protect the security and sovereignty of the nation and its territory, to give protection to the population, promote the harmonious integration and solidarity of its inhabitants and peoples, just as it must protect the rights of people to participate with equality of opportunity in national life. The protection of the environment as well as the national history and culture are special responsibilities of the State.

### Article 4

Sovereignty resides with the nation and with its diverse indigenous peoples. The exercise of sovereignty is realized by citizens through elections and plebiscites established by this Constitution and the laws, as well as through public bodies and authorities in the discharge of their duties. No sector of the people nor any individual may claim to exercise the sovereignty of the Chilean State.

- International law
- International organizations
- International human rights treaties

The exercise of sovereignty recognizes respect for human rights as a limit. It is a requirement that organs of the State and all people respect and promote the rights guaranteed by this Constitution, those established by international treaties that have been ratified by Chile and are in force, and in the Universal Declaration of Human Rights proclaimed by the Assembly General of the United Nations on December 10, 1948. The organs of the State must reconcile these rights with those established in the Constitution.

## Article 5

- Right to culture
- Integration of ethnic communities
- Indigenous right to representation
- First chamber representation quotas
- Second chamber representation quotas

The State recognizes the indigenous peoples that live within the national territory as a part of the Chilean nation, which obligates the State to promote and respect their integrity as well as their rights and culture. The indigenous peoples will participate as indigenous groups within the National Congress through a parliamentary representation, whose number and form of election will be determined by an organic constitutional law.

## Article 6

Chile is a State of laws, based on the principle of constitutional supremacy. As a consequence, the entire juridical system is subordinated to the Constitution, the primary source of law; the organs of the State, prior to the regular inauguration of its members, must act within the form established by the Constitution and according to the legal norms dictated by the Constitution.

The autonomous character that this Constitution grants to certain organizations does not remove their status as part of the State with the same rights, responsibilities, and limitations that their status as part of the State involves.

The precepts of this Constitution obligate the leaders or members of these organizations just as they would any other person, institution or group.

Violation of this norm will generate sanctions as determined by this Constitution and the laws.

The Constitutional Tribunal will resolve those issues within its jurisdiction between organs of the State that do not involve the Superior Courts of Justice.

## Article 7

No magistrate, person, or group of persons may attribute to themselves, even within extraordinary circumstances, any authority or rights other than those expressly conferred to them by the Constitution and the laws.

Any act in contravention of this article is null and will give rise to the responsibilities and sanctions that the law mandates.

## Article 8

The exercise of public functions obligates representatives of the State to strictly adhere to the principle of probity in all of their actions.

The acts and resolutions of the organs of the State are public; their foundations and the procedures utilized are public as well. However, a single law may establish secrecy of all effects or some details when publicity would affect the ability of the organization to fulfill its duty, the rights of persons, national security, or the national interest.

The President of the Republic, the Minister of State, the representatives and senators, as well as other State authorities and employees established by an organic

constitutional law, must publicly declare their financial interests and assets.

Such a law will determine the cases and the conditions in which these authorities must delegate the administration of certain goods or duties to third parties in cases where a conflict of interest would exist in the exercise of their official duties. Alternatively, other appropriate means to resolve conflicts may be considered and, in qualified situations, the transfer of all or part of these goods may be arranged.

## Article 9

It is the responsibility of the organs and institutions of the State to guarantee the institutional order of the Republic. All conduct that seeks to attack our democracy and fundamental rights is contrary to the Constitution and can be found classified within the penal code.

Terrorism, in any of its forms, is contrary to the rule of law.

The punishable acts classified as terrorist crimes, as well as the responsibility for their commission, will be established in a special section within the penal code. The procedural rules for their judgement will be material for the Penal Process Code.

## Chapter II: Nationality and Citizenship

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### Article 10

Chileans are:

1. Those born within the territory of Chile;
2. The children of a Chilean mother or father born within a foreign territory;
3. Foreigners that obtain a nationalization card according to the law, and
4. Those who obtain a special grant of nationalization by law.

The law will regulate the procedures for renouncing Chilean citizenship, of opting for Chilean citizenship, of grant, denial and cancelation of cards of nationalization, and the formation of a registry of all of these acts.

### Article 11

Chilean nationality is lost:

1. Through voluntary renunciation before a competent Chilean authority. This renunciation will only take effect if the person has nationalized within another country prior to renunciation;
2. By supreme decree in the case of aiding an enemy of Chile or its allies during war;
3. Due to cancelation of a card of nationalization, and

#### 4. Through a law that revokes amnesty

Those who lose Chilean nationality for any of the causes established in this article will only be able to regain Chilean nationality through law. A person that would become stateless due to loss of nationality cannot lose Chilean nationality.

## Article 12

Any persons affected by an administrative act or resolution that deprives them of their Chilean nationality can appeal, for themselves or for any other person of their name, within the period of thirty days to the Supreme Court, which will convene the full tribunal. The intervention of the Supreme Court will suspend the effects of the act or resolution appealed.

## Article 13

Chileans who have reached the age of 18 are citizens.

Citizenship confers the rights of suffrage, to run for office in elected office, as well as the other rights guaranteed by the Constitution and laws.

Citizens with the right to suffrage that are outside of the country may vote from abroad according to the laws in force.

## Article 14

Foreigners that have resided in Chile for longer than five years and who have complied with the requirements outlined in the first indent of article 13 may exercise the right to vote in cases and forms as determined by the law.

Those who have nationalized according to numbers 3 or 4 of article 10 will only have the option to run for elected office after they have had their nationalization card for over five years.

## Article 15

In popular elections, suffrage will be personal, equal, secret, informed and voluntary, with the exception of a plebiscite as outlined in article 133 of this document.

A popular election can only be convened for the elections outlined within the Constitution, for plebiscites contemplated by the Constitution, or according to an organic constitutional law, subject to the approval of the Constitutional Tribunal.

In popular elections to choose members of elected bodies, a procedure to convert votes into positions will be applied to produce a proportional representation between the percentage of votes and the percentage of positions obtained by the list of candidates. The law will establish the forms of candidacy and the procedure to calculate the distribution of positions as well as the necessary corrections to represent each of the candidate lists.

## Article 16

The right of suffrage is only suspended by interdiction in the case of dementia of due to a judicial condemnation established by an organic constitutional law.

## Article 17

Citizenship is only lost through the loss of Chilean nationality.

## Article 18

There will be a public electoral system. An organic constitutional law will determine the organization and functioning of the system and regulate the form in which electoral processes and plebiscites will be realized in all cases not foreseen by the Constitution; it will always guarantee the strengthening of political parties as well as the participation of independents within those processes. This law will also establish a system of financing, transparency, as well as limits and controls on electoral spending.

An organic constitutional law will also include an electoral registration system under the direction of the Electoral Service to which those that meet the requirements established by this Constitution will be incorporated by the ministry created by the organic constitutional law.

The protection of public order during elections and plebiscites will be the responsibility of the Armed Forces and the Carabineros (a military police force) as indicated by the law.

# Chapter III: Of the Fundamental Constitutional Rights, Guarantees and Duties

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## Article 19

Through the organs and authorities established within it, this Constitution ensures and guarantees to all people the following directly applicable rights:

1. The right to life as well as physical and mental integrity.

The death penalty, torture, and degrading forms of punishment to mental and physical integrity are prohibited.

2. The right to personality. Every person has the right to free development of their personality, within the limits required to respect the legal order as well as the dignity and rights of all other people.

3. The rights of boys, girls, and adolescents to respect for their integrity as well as their moral, physical, psychic and sexual development. Additionally, they have the right to be treated according to their level of maturity and granted progressive autonomy in the issues that affect them.

The care of boys, girls, and adolescents is a right of the parents or of the people that care for them, according to the law.

- Conditions for revoking citizenship

- Referenda

- Campaign financing

- Prohibition of corporal punishment
- Prohibition of cruel treatment
- Right to life
- Prohibition of torture

- Right to development of personality

- Rights of children
- State support for children

It is a responsibility of the State, the family, and the community to grant the necessary protection in order for them to exercise their rights. The law will establish a system of protection and guarantees for the rights of boys, girls, and adolescents;

- 4. Equality before the law. In Chile there are no privileged persons or groups. In Chile there are no slaves and he who steps on Chilean territory is free.

No person, authority, group, or even the law can establish arbitrary differences. No person can be negatively discriminated against due to their race, skin color, sex, gender, language, religion, opinion, public beliefs, disability, economic and social position, birth, or any other condition;

- 5. Men and women are equal before the law and in the enjoyment and exercise of their rights. It is an obligation of the State to promote equality, adopting the legislative and administrative means to eliminate all forms of discrimination that affect equality.

- 6. Equal juridical protection in the exercise of rights during investigation or judgement by the State.

- a. Every person has the right to justice and to be heard by tribunals.

- b. Every person has the right to a trial. Every sentence from an organization that exercises jurisdiction must base itself on a legally conducted process that features the guarantees of an investigation and a procedure adjusted to the law, justice, and especially to constitutional rights.

- c. No person can be investigated nor processed without their knowledge or without constant official documentation of the condition. Every person has the right to reparation or compensation if they are absolved or dismissed in these investigations or processes, or if the process does not follow proper legal procedures.

- d. All persons have the right to legal defense in the form signaled by the law and no authority or individual may impede, restrict or perturb the intervention of a legal expert, if it is formally required. With respect to the members of the Armed Forces and the Public Order and Security Forces, this right is guided, in matters concerning administrative and disciplinary issues, according to the norms pertaining to their respective statutes.

- e. The law will arbitrate the means to provide assistance and judicial defense to those who are not able to procure it themselves. The law will distinguish the cases and establish the form in which natural persons that are victims of a crime will be eligible for free legal assistance and defense in order to exercise the penal actions recognized by this Constitution and the laws.

- General guarantee of equality
- Equality regardless of gender
- Equality regardless of skin color
- Equality regardless of creed or belief
- Equality regardless of social status
- Equality regardless of financial status
- Equality regardless of parentage
- Equality regardless of race
- Equality regardless of language
- Equality regardless of religion
- Equality for persons with disabilities
- Prohibition of slavery

- Equality regardless of gender

- Guarantee of due process

- Protection from false imprisonment

- Right to counsel

- Right to counsel
- Protection of victim's rights



• Right to counsel

f. Every person accused of a crime has the non-renounceable right to be assisted by a defense attorney provided by the State, if a person does not name one, the State will name one at the opportunity provided by the law.

g. No person may be investigated nor judged by special commissions, but only by the prosecutor or tribunal indicated by the law for the case, which must be established prior to the perpetration of the act.

h. The law cannot presume the penal responsibility as a right.

i. No crime will be punished with a different punishment than the punishment indicated by the law and promulgated prior to the perpetration of the crime, unless a new law favors the party affected by the crime.

j. No law may establish punishments without the conduct they are meant to punish being expressly and completely described.

k. Every person investigated, accused, denounced, or formally charged has the right to the presumption of innocence and cannot be treated as guilty nor exposed publically to be guilty, until they have been proven guilty. Any contravention of this norm can be challenged in court in order to obtain sanctions and reparations.

l. No person may be sanctioned by a punishment that is not proportional to the conduct punished or to the judicial good affected; nor may a person be newly judged for a matter already known or resolved judicially.

• Protection from ex post facto laws  
• Principle of no punishment without law

• Presumption of innocence in trials

• Prohibition of double jeopardy

• Right to privacy

7. The respect and protection of private life and the honor of persons and their families, establishing damages of either of these judicial goods as reparable.

All people have the right to the protection of their personal information. The law will regulate the treatment of personal data and the sanctions that will occur in the case of noncompliance or when such data is made vulnerable;

• Regulation of evidence collection  
• Right to privacy

8. The inviolability of the home and of every form of communication and private documentation. The home and workplace may be raided, personal objects may be seized, and communications and private documents may be intercepted, opened, copied, or registered only in the cases and forms expressly determined by the law; additionally, such acts may only be committed by the persons and departments expressly determined by the law. Such interventions must have judicial backing and the affected persons must receive reparations if the investigations are revealed to have been unnecessary or disproportionate. The people and institutions that infringe on this right will personally and jointly answer for the damage caused;

- Freedom of religion
- Right to conscientious objection
- Freedom of opinion/thought/conscience

9. The liberty of conscience, the right to conscientious objection, and the right for the manifestation of all beliefs as well as the exercise of all cults that do not oppose the law.

Religious confessions may erect and conserve temples as well as their dependencies under the conditions set by the law and ordinances.

The churches, confessions, and religious institutions of any cult will have the rights established and recognized by the actual laws in force with respect to their assets. The temples and their dependencies used exclusively for cult purposes are exempt from tax contributions;

10. The right to personal liberty and to individual security.

In consequence:

- Freedom of movement

- a. Every person has the right to reside and remain in any place within the Republic, to travel from one part to another, and to enter and exit their territory within the limits established by the law and always without the interference of third parties;

- Protection from unjustified restraint

- b. No person may be deprived of their personal liberty nor may their liberty be restricted except in cases and in forms established by the Constitution and the laws;

- Protection from unjustified restraint

- c. No person may be investigated, arrested, or detained except by order of a public authority expressly issued according to the law and after said information or order has been communicated in a legal form. However, a person caught in the act may be detained with the restriction that they must stand before a competent judge within the next twenty-four hours and be allowed to send notice to a person indicated by the detainee.

- Terrorism

If the authority should arrest or detain a person, it must notify a competent judge and give the judge access to the detainee within forty-eight hours. The judge may issue a public and legally based resolution to extend this period to five days, or up to ten days in the case that acts classified as terrorist acts will be investigated.

- d. No person may be arrested or detained, or subjected to preventative imprisonment except in their home or in public places designed for this purpose and within the bounds of the law.

Those in charge of prisons may not permit the entry of any arrestee, detainee, accused person, or prisoner without leaving documentary proof of the corresponding order, which emanates from a legal authority and is available in a public registry.

No miscommunication may impede the person charged with overseeing the detention facility from visiting an arrestee, detainee, accused person, or prisoner within the facility. The person charged with overseeing the detention facility is obligated, whenever an arrestee or detainee requests, to transmit a copy of a detention order to a competent judge, to request that he be given said copy, or to give the arrestee or detainee a certificate noting his having detained that individual if this requirement was omitted at the time of arrest;

e. Liberty of the defendant will proceed unless preventative imprisonment or detention are considered necessary by the judge in order to allow investigations or to protect the security of the victim or society, which requires an immediate, legally based and public resolution. Preventative imprisonment or detention are transitory restrictions on liberty and may not exceed six months. The determination of their time limit may not refer to any punishment. The law will establish the requirements and modes of obtaining it.

f. During criminal proceedings a defendant or accused person is not obligated to testify under oath regarding his or her own acts; neither can they be obligated to make a declaration counter to themselves, their ancestors, descendants, spouse or other persons in the cases and circumstances indicated by the law;

g. Confiscation of property will not be permitted with the exception of confiscation in the cases established by the law; however, confiscation will be permitted in cases of illicit associations.

h. Neither the loss or suspension of welfare rights nor the loss of political rights cannot be applied as a sanction, with the exception of the permissions outlined within article 17 of this Constitution.

i. Every person that receives a judgement of acquittal, is definitively dismissed, or proves to have had their rights violated during the investigation and proceedings against them will have the right to reparation or compensation by the State or by the persons responsible for the property or moral damages suffered by them. The declaration of a competent tribunal, as well as compensation will be judicially determined in a brief, summary process and the evidence will be fully assessed;

11. The right to live in an environment free of contamination. It is the duty of the State to ensure this right is protected and to oversee the preservation of nature.

The law will establish specific restrictions on the exercise of certain rights or liberties in order to protect the environment;

12. The right to live in a shelter with the basic material conditions and access to basic services as established in the law

13. The right to the protection of health.

• Right to pre-trial release  
• Protection of victim's rights

• Protection from self-incrimination

• Protection from false imprisonment

• Protection of environment

• Right to shelter

• Right to health care

The State guarantees the free and equal access to the promotion, protection, and recuperation of health and the rehabilitation of the individual.

Likewise, the State is charged with the coordination and control of actions related to health.

It is a preferential right of the State to guarantee the functioning, and quality of a public health system, partially supported by obligatory contributions from users that are proportional to their incomes. The performance of health services provided by welfare institutions will be regulated by the law, which will guarantee the availability and quality of these services as well as the obligations that may be established to cover these services.

Every person will have the right to choose, without being negatively discriminated against, the system of health they wish to belong to, be it private or public;

#### 14. The right to education.

The objective of education is the development of the person during the distinct stages of life. Access to the formal system at its distinct levels will be guaranteed by the State.

Parents or parental guardians have the preferential right and duty to educate their children. The State has the duty to grant special protection for the exercise of the right to education, making available the educational establishments necessary for the right to be realized.

It is obligatory for the State to promote early childhood education, to finance a free system starting at the medio menor level in order to ensure access to it and higher levels. Kindergarten is obligatory as it is a requirement for entry into basic education.

Basic education and secondary education are obligatory, requiring the State to finance a free system to achieve that goal and ensure access to basic and secondary education for the entire population. In the case of secondary education, this system, in accordance with the law, will extend until a person reaches the age of 21. Higher education will also be free and provided by State establishments or within those private institutions allowed for by the law. The law may establish fees for the administrative costs generated by each student as well as subsidies for those who require assistance in order to pay the fees.

The State is also charged with fostering the development and quality of education, culture, scientific investigation and technological innovation, artistic creation, and the protection and growth of the cultural patrimony of the nation.

It is the duty of the community to contribute to the development and improvement of education;

- Compulsory education
- Free education

- Access to higher education
- Compulsory education
- Free education

- Right to culture
- Reference to science

The State recognizes the distinct forms of education of the indigenous peoples within the framework of the general system of education outlined within this article;

- Right to academic freedom
- 15. The liberty of teaching is inherent in the right to education and includes the right to open, organize and maintain educational establishments within the norms that the Constitution and the laws establish and under the supervision of the corresponding ministries.

- Right to academic freedom
- The liberty of teaching has no other limitations than those established by the law.

- Right to academic freedom
- Officially recognized teaching may not be oriented by a specific political or party tendency nor serve to diffuse such a tendency; the former shall not affect civic education, which must be obligatorily taught in all educational establishments

Parents have the right to choose the educational establishment their children attend.

A law will establish the minimum requirements that must be met at each level of education, basic and secondary, in addition to indicating the objective norms to be generally applied in order to permit the State to ensure compliance. Said law will also establish the requirements for official recognition of educational establishments at all levels;

- Freedom of expression
- Freedom of opinion/thought/conscience
- 16. The freedom of expression, to opinion and to inform, without prior censorship in any form or through any means; the former may not inhibit the ability to respond to crimes or abuses committed in the exercise of these rights, in conformity with the law.

In no case may the law establish a State or private monopoly on the means of social communication, consistently guaranteeing the existence of pluralism in the editorship and information provided by the means of communication.

- Right to protect one's reputation
- All natural or juridical persons offended or unjustly referred to by a means of social communication will have the right to have their declaration or rectification freely dispersed according to the conditions determined by law by the means of social communication in which the information was emitted without affecting the legal actions the person affected has the right to.

All natural or juridical persons have the right to found, edit, and maintain means of communication under the conditions established by the law.

- State operation of the media
- Television
- The State, universities and other persons or entities that the law determines may establish, operate, and maintain television stations or other means of communication.

There will be an autonomous Consejo Nacional de Television (National Television Council) with juridical personhood, charged with the oversight of the proper functioning of this mode of communication. A law will indicate

the organization, function, and attributes of the council.

The law will regulate a system of qualifications for the exhibition of cinematographic productions;

17. The right of persons to freely inform themselves and the right to access information available within public organizations without limits beyond those established for reserved or secret information in article 8 of this Constitution;

18. The right to participation in public affairs, directly, through associations, or through representatives in accordance with the legal order.

The organizations of the State must establish mechanisms of public participation in the generation and evaluation of their activities in ways and under conditions determined by the law;

19. The right to peaceful assembly without prior permissions and without arms.

Meetings in plazas, streets and other public spaces will be conducted according to the law;

20. The right to present petitions to authorities, regarding any issue of public or private interest without any other limitation beyond doing so in a respectful and convenient manner. All natural and juridical persons possess this right regardless of their condition and legal status. The law will regulate the form and conditions for the exercise of this right;

21. The right of association without prior permission.

To enjoy juridical personhood, associations must constitute themselves in conformity with the law.

No person may be obligated to join an organization, except those that, according to the law, are required to perform a profession.

Organizations contrary to the legal order are prohibited;

22. The free exercise of political rights.

People are free to participate in political parties or other types of political organizations created in accordance with the law regardless of the contents of article 13 of this Constitution.

Parties are associations that contribute to the functioning of the democratic system and the formation of the people's political voluntarism; their legal order, functioning, ends, and structure are regulated by an organic constitutional law. People have the right to receive civic education from the formal education system as well as from the social and political organizations in which they freely participate.

- Prohibited political parties
- Regulation of political parties

The Political Constitution guarantees political and social pluralism. Parties, movements or other forms of organization whose acts or conduct do not respect the basic principles of the democratic and constitutional order, seek the establishment of an autocratic system, as well as those that engage, incite or propose violence are unconstitutional. It is the duty of the Constitutional Tribunal to declare their unconstitutionality;

- Right to work

### 23. The right to work and legal protection of the right to work.

- Right to work
- Right to just remuneration

All people have the right to freely contract and the liberty to work for just compensation.

- Right to just remuneration

Any discrimination not based on the capacity or suitability of a person, especial with regards to salary differences between men and women, is prohibited, with the exception that the law may require Chilean nationality or age limits in certain cases.

- Right to appeal judicial decisions

No class of work may be prohibited, except that which opposes the law or public health or that which demands the national interest as declared by a law. No legal norm nor any public authority may demand affiliation to an organization or an entity as a requirement to develop a specific activity or engage in a specific form of labor, nor may renunciation of affiliation be demanded in order to maintain a specific activity or a specific form of labor. The law will determine the professions that require a high school or a university degree and the other conditions that must be met in order to exercise the profession. Professional schools constituted in accordance with the law and that are related to these professions will be empowered to know of the complaints made against the ethical conduct of their members. Against their resolutions, one may appeal to the respective Court of Appeals. Unassociated professionals will be judged by the special tribunals established by a law.

The right of unions to collective bargaining, except in cases in which the law expressly prohibits negotiation. The law will establish the modes of collective negotiation and the adequate procedures to achieve a just and pacific outcome through them. The law will indicate the cases in which collective bargaining must submit to obligatory arbitration, which will correspond to special tribunals of experts whose organization and attributes will be established by the law.

- Right to strike

The right to strike within the right to collective bargaining in accordance with the law. Striking will be prohibited for workers who work within institutions, no matter their nature, purpose, or function, that attend to services of public utility or whose paralysis would cause serious harm to the health or the supply of the population or national security. The law will establish procedures to determine the institutions whose workers will be prohibited from striking under this exception and the eventual sanctions that will accompany their noncompliance;

### 24. Admission to all the public functions and jobs, without other requirements beyond those imposed by the Constitution and the laws;

### 25. The right to social security.

• State support for the unemployed

The State guarantees the access of all persons to the enjoyment of the benefits necessary to lead a life of dignity in the case of retirement or loss of work, whether they are provided by public or private institutions. The law may establish obligatory contributions in proportion to the incomes of the affiliates.

The State will supervise the exercise of the right to social security as well as the proper functioning of lending institutions.

Every person will have the right to choose, without negative discrimination, the system of pensions to which they wish to join, be it private or public;

• Right to join trade unions

- 26.** The right to unionize in the cases and forms indicated by the law. Union affiliation will always be mandatory.

Union organizations will enjoy juridical personhood upon registering their statutes and constitutive acts in the form and conditions established by the law;

- 27.** The equal distribution of taxes in proportion to incomes or in the progression or form set by the law as well as the equal distribution of the remaining public offices.

Tributes collected, no matter their nature, become part of the patrimony of the State.

The law may authorize that certain tributes can be created by the State for the purposes of national defense, education, and health. Likewise, the law may authorize that those that tax activities or property that have a clear local or regional identification may be applied within the guidelines indicated by the same law, by communal or regional authorities for the financing of productive or human development projects;

• Right to establish a business

- 28.** The right to develop any economic activity, respecting the legal norms that regulate it.

The State and its organs may develop business activities or participate in those previously established by the law. In this case, these activities will be subject to the common legislation applicable to the particulars notwithstanding the exceptions justified and established by the law;

• Right to own property

- 29.** The liberty to acquire ownership of all classes of property, except those that nature has made common to all human beings or that should belong to the entire nation given that the law declares it to be so. The foregoing, without prejudice to that which is prescribed elsewhere in other precepts of this Constitution.

An organic constitutional law, when demanded by national interest and the common good, may establish limitations on or requirements for the acquisition of certain types of property;



30. The right to ownership in its diverse species over all classes of corporeal and intellectual property.

Only the law may establish the form of acquiring, using, enjoying, and discharging property. Property must serve the common good, and the law may establish the limitations and obligations that are derived from its social function when the general interests of the nation, national security, public utility and sanitation, the conservation of the patrimony and environmental sustainability demand.

In no case may any person be deprived of their ownership of property that they own, nor may they be deprived of any of the essential attributes or special powers of ownership, except by virtue of a general or special law that authorizes expropriation for the purpose of public utility or national interest as qualified by the legislator. A person who experiences expropriation may challenge the legality of the act of expropriation before ordinary tribunals and will always have the right to compensation for the harm caused, which will be set through a common agreement or through a sentence dictated according to the law by said tribunals.

The physical taking of expropriated property will require prior payment of the entirety of the compensation, which, in the case of disagreement, will be provisionally determined by experts in the form indicated by the law. In the case of a complaint regarding the origin of the expropriation, the judge may, with the merit of the antecedents invoked, decree the suspension of the taking.

The State has absolute, exclusive, inalienable and imprescriptible ownership of all mines, understood to include guano deposits, metalliferous sands, salt flats, the carbon and hydro carbon deposits as well as the other fossil substances, with the exception of superficial clays, notwithstanding the ownership of natural or juridical persons over the land upon which the mines or deposits are located. The surface structures will be subject to the obligations and limitations that the law indicates to facilitate the exploration, exploitation, and the beneficiation of said mines.

The law will determine which substances of those previously mentioned in the preceding clause, with the exception of liquid or gaseous hydrocarbons, may be objects of exploration or exploitation concessions. Concessions will always be constituted by a judicial resolution and will have the duration, grant the rights, and imply the obligations expressed by the law, a law that will have the character of an organic constitutional law. Mining concessions obligate the owner to develop the activity necessary to satisfy the public interest that justifies its granting. Its regime of protection will be established by said law, will tend to directly or indirectly comply with this obligation and it will contemplate causes of expiration in cases of noncompliance or in cases of a simple termination of the ownership of a concession. In any case, said causes and effects must be established at the moment the concession is granted.

It will be the exclusive competence of the ordinary tribunals of justice to declare the expiration of such concessions. The controversies produced with respect to the expiration or termination of ownership of a concession will be resolved by them; and in the case of expiration, the affected party

may request that the justice system issue a declaration to sustain their right.

The ownership of a title holder over a mining concession is protected by the constitutional guarantee outlined within this number.

The exploration, exploitation and the beneficiation of the deposits that contain substances that are not susceptible to concession may be exercised directly by the State or by its businesses, through administrative concessions, or through special operations contracts that meet the requirements and under the conditions that the President of the Republic sets in each case through supreme decree. This norm will also apply to the deposits of any type that exist in maritime waters under the national jurisdiction and to those located in part or entirely in areas that, according to the law, are determined to have importance for national security.

Bodies of water in any of their states are national property for public use. The rights of particular entities with regards to these waters, recognized or constituted in conformity with the law, will grant ownership to title holders over them. The law will regulate the procedure to constitute, recognize, exercise, and terminate the rights and concessions granted to particular entities;

31. The liberty to create and disseminate the arts as well as the rights of authors over their intellectual and artistic creations of any type for the period of time indicated by the law, which will not be less than the lifetime of the right holder.

The right of the author includes ownership of the works and other rights, such as paternity, the edition, and the integrity of the work, all in accordance with the law.

Intellectual property over patents, commercial brands, models, technological processes and other analog creations are also guaranteed for the time period established by the law.

The prescriptions of the second, third, fourth, and fifth clauses of the previous article will also be applicable to intellectual and artistic creations as well as to industrial property;

32. The cultural and linguistic rights of indigenous peoples and the right to their cultural, material, and immaterial patrimony in accordance with the law. It is the responsibility of the State to develop these rights. The preservation and diffusion of the languages of the indigenous peoples will be established in the law, and;
33. The security that the rights guaranteed by this Constitution may not be affected in their essence.

## Article 20

Whoever expects to have their rights as established in this Constitution violated by the arbitrary or illegal acts of any person or institution, be it private or public, may request to obtain effective protection in the face of that vulnerability and the reestablishment of the right violated before any ordinary tribunal of first instance, notwithstanding the other rights that may jurisdictionally impeded. The resolution of this tribunal will be appealable to the Constitutional Tribunal.

The organic constitutional law of the Constitutional Tribunal will regulate the exercise of this constitutional action of rights guardianship.

## Article 21

Notwithstanding that which is outlined in article 20, any individual under investigation, arrested, detained or imprisoned for an infraction of that which is in the Constitution and the laws may come on his or her own behalf, or for any other of their name, before the magistrate indicated by the law, in order for the latter to determine whether legal requirements have been met and to immediately adopt the measures deemed necessary to reestablish the rule of law and ensure the protection of the affected person.

This magistrate may order the individual to be brought to them and the magistrate's decree will be precisely obeyed by all who are in charge of the investigations, prisons, or detention facilities. Informed of the background, the magistrate will order that the detainee be released immediately, demand that legal defects be repaired, or the magistrate will place the individual at the disposition of a competent judge, proceeding quickly and summarily and correcting these errors or taking account of who is responsible for correcting them.

The same recourse will be available in the same form to all persons that illegally suffer any other form of deprivation, violation or threat to their rights to personal liberty and individual security. In such cases, the respective magistrate will dictate the means, as indicated in the prior clauses, that he expects to be conducive to reestablishing the rule of law and ensuring the protection of the affected person's rights.

## Article 22

All inhabitants of the republic must respect Chile, its national emblems, and the emblems of its indigenous peoples.

The national flag, the coat of arms of the republic and the national anthem are emblems of the nation.

Chileans have the fundamental right of honoring their homeland, of defending Chile's sovereignty and the essential values of the Chilean tradition and of Chile's indigenous peoples.

Military service, taxes and other personal duties imposed by the law are legally binding in the terms and forms established by the law.

Chileans in possession of arms must be registered in the military registries if they are not legally exempt.

All people have the duty to protect, promote, and respect fundamental rights and human rights; to protect and conserve nature as well as the historical and cultural patrimony.

- Right to appeal judicial decisions
- Ultra-vires administrative actions

- National anthem
- National flag

- National anthem
- National flag

- Right to culture

- Duty to serve in the military
- Duty to pay taxes

- Right to bear arms

- Right to culture
- Protection of environment

# Chapter IV: Government

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## President of the Republic

### Article 23

The government and the administration of the State correspond to the President of the Republic, who is the Chief of State and the Chief of Government.

The authority of the President extends to all that pertains to the conservation of public order within Chile and the external security of the republic, in accordance with the Constitution and the laws.

On June 1st of every year the President of the Republic will address the entire Congress regarding the administrative and political state of the nation.

### Article 24

To be elected President of the Republic a person must have Chilean nationality according to numbers 1 and 2 of article 10; have reached the age of forty and possess the other qualities necessary to be a citizen with the right to vote.

The President of the Republic will exercise his functions for a term of six years and may not be re-elected or run for this position again.

The President of the Republic may not leave the national territory for longer than thirty days and may not leave during the day indicated in the following article without approval of the senate.

In all cases, the President of the Republic will communicate to the Senate a decision to leave the territory and will provide the motives that justify the absence with the proper prior notice.

### Article 25

The President of the Republic will be elected in a direct vote and by absolute majority of the valid votes cast. The election will be implemented in the form determined by an organic constitutional law on the third Sunday of November of the year prior to the cessation of the current officeholder's term.

If more than two candidates run in an election of the President of the Republic and none of them obtain more than half of the valid votes cast, a second vote will be conducted and will be circumscribed to those candidates that obtained the two highest vote counts in the first vote; the second vote will result in the candidate that receives the most votes being elected. This new election will be verified in the form determined by the law the fourth Sunday after the first election.

With regards to that which was set forth in the prior clauses, blank votes and null votes will be considered as votes not cast.

In the case of death or renunciation of one or both candidates to which the second clause refers, the President of the Republic will convoke a new election within a period of ten days following the death or renunciation. The election will be celebrated ninety days following the announcement if this day corresponds to a Sunday. If not, it will take place the following Sunday.

• Name/structure of executive(s)

• Legislative oversight of the executive

• Minimum age of head of state  
• Eligibility for head of state

• Head of state term length  
• Head of state term limits

• Scheduling of elections  
• Head of state selection

If the mandate of the President of the Republic expires before the date that the new President elected according to the prior clause takes office, the norm contained in the first clause of article 27 will be applied.

## Article 26

The counting process to determine the results of the presidential election must be completed within the fifteen days following the first vote or within the thirty days following a second vote.

The Tribunal Calificador de Elecciones will immediately communicate the proclamation of the President-elect to the President of the Republic.

The full Congress, in a public meeting on the day that the current President's term ends will commemorate the pronouncement of the Tribunal Calificador de Elecciones with regard to the newly elected President.

In this same act, the President-elect will take an oath of office before the President of the Senate swearing to faithfully discharge the duties of the office, protect the independence of the nation, guard the Constitution and the laws, and immediately assume the functions of the office of the President of the Republic.

## Article 27

If the President-elect is unable to take office, the President of the Senate will assume responsibility with the title of Vice-President of the Republic; in the case that the President of the Senate is unable to do so, the President of the Cámara de Diputados will do so, and, in the case that the President of the Cámara de Diputados is unable to do so, the President of the Supreme Court will do so.

In all, if the impediment to the President-elect is absolute or will continue indefinitely, the Vice President, in the ten days following the accord of the Senate adopted in accordance with article 53 number 6, will convoke a new presidential election that will be conducted ninety days after the convocation, if this day corresponds to a Sunday. If not, the election will be held on the following Sunday. The President of the Republic elected through these means will assume office at the opportunity indicated by this law and will remain in office until the day that the office of the President that was unable to assume office, thereby creating the need for the special election, would have ended.

## Article 28

In the case of a temporary impediment to the President of the Republic's ability to discharge the duties of office, such as sickness, absence from the national territory, or another serious reason, the position will be temporarily assumed by the titular minister to whom the legal order of precedent indicates is first in the line of succession, who will also assume the title of Vice-President of the Republic. If the first titular minister is unable to do so, the next titular minister in the line of succession; if all of the titular ministers in the line of succession are unable to do so, the duty will fall to the President of the Senate, the President of the Cámara de Diputados, or the President of the Supreme Court in that order.

In the case of a vacancy in the office of the President of the Republic, the position will be filled in the same way as the previous clauses have described and a successor will be selected according to the following clauses.

If the vacancy occurs less than two years before the following election, the President will be selected by the full Congress through an absolute majority vote of all Senators and Diputados. The election by the Congress will be conducted within the ten days following the vacancy and the President-elect will assume office within

thirty days after election.

If the vacancy occurs more than two years before the next presidential election, the Vice-President will call for a Presidential Election within ten days after the vacancy; the subsequent election will take place 120 days later, if that day is a Sunday. If the day is not a Sunday, the election will take place on the next Sunday. The President elected through this process will take office on the tenth day following the proclamation of the election results.

The President of the Republic elected according to the processes described in the prior clauses will remain in office until the day that the office of the President that was replaced would have ended and may not run in the next election.

## Article 29

The President will cease exercising the role of President on the day the current term ends and the newly elected President takes office.

Whoever has discharged the duties of office for a full term will immediately be granted the official title of Ex-President of the Republic with full rights.

In virtue of this quality, the provisions of the second, third and fourth clauses of article 62 and article 63 will be applicable.

The title will not be extended to citizens that became President due to vacancy nor to those who were found guilty of criminal misconduct.

An Ex-President of the Republic that performs a function remunerated with public funds will cease to receive payments associated with the title of Ex-President as long as he or she is performing said function, maintaining in any case, the privileges associated with the title. Teaching professions and other positions in higher, secondary or special education are exempt from this requirement.

## Article 30

The President designated by the full Congress or, the Vice-President of the Republic will have all the attributes conferred upon the President of the Republic by this Constitution.

## Article 31

Special attributes of the President of the Republic are:

1. Contribute the formation of the laws in accordance with the Constitution, to sanction them and to promulgate them;
2. To request, indicating the motives, that a meeting be called within any of the houses of the National Congress. In any case, the session must be held as soon as possible;
3. To draw on legislative powers and dictate decrees with the force of law regarding matters indicated by the Constitution;
4. To convoke a plebiscite in cases foreseen by the Constitution and laws, in conformity with article 15 of this Constitution;

• Head of state powers

• Extraordinary legislative sessions

• Head of state decree power

• Referenda

- Emergency provisions
  - Head of state decree power
  - Cabinet removal
  - Cabinet selection
  - Legislative committees
  - International organizations
  - Attorney general
  - Constitutional court selection
  - Supreme court selection
  - Ordinary court selection
  - Power to pardon
  - Removal of individual legislators
5. To declare states of constitutional exception in cases and forms indicated by the Constitution;
  6. To exercise regulatory power on all matters that are not exclusive to the legal domain, without prejudice to the President's ability to issue regulations, decrees, and instructions necessary to execute the laws;
  7. To appoint and remove Ministers of the State as well as provincial and regional sub-secretaries delegated by the President at will. The Ministers of State must attend to the commissions concerned with their respective characters in both houses of the National Congress during their first month of office;
  8. To designate the ambassadors, diplomatic ministers, and the representatives for Chile in international organizations, who must attend the commissions of international relations of both houses of the National Congress before traveling to their destination.
  9. To appoint the Controller General of the Republic with the approval of the Senate;
  10. To appoint and to remove functionaries that the law denominates as under the exclusive confidence of the President and to provide the remaining civil servants according to the law. The removal of other functionaries will occur according to the provisions that this clause determines;
  11. To grant retirements, and pensions according to the laws;
  12. To appoint the magistrates and judicial prosecutors of the Court of Appeals and the judges, as proposed by the Supreme Court and the Courts of Appeals, respectively; to appoint the members of the Constitutional Tribunal according to article 93; and to appoint the magistrates and judicial prosecutors of the Supreme Court and the Nacional Prosecutor, according to the proposal of said court and with the approval of the senate, all according to the process described in this Constitution;
  13. To grant private pardons in the cases and forms determined by the law. A pardon will be inappropriate as long as a final sentence has not been made in the respective process. The functionaries accused by the Cámara de Diputados and condemned by the senate may only be pardoned by the Congress;
  14. To call for the Constitutional Tribunal to mandate the cessation of the Diputado or Senator in accordance with clause five of article 61 of this Constitution.

- Foreign affairs representative
- International law
- International organizations
- Treaty ratification

15. To conduct political relations with the foreign powers and international organization, and to carry out the negotiations; to conclude, sign, and ratify the treaties the President finds to be in the interest of the country, which must also be sent to the Congress for approval according to the prescriptions of article 54 number 1. The discussions and deliberations about these objects will be secret if the President of the Republic requests them to be secret;

- Selection of active-duty commanders

16. To designate and remove the Commanders in Chief of the Army, the Navy, the Air force, as well as the General Director of the Carabineiros according to article 106, and to direct the nominations, promotions and retirements of the officials of the Armed Forces and the Carabineiros in the form indicated by article 107;

- Designation of commander in chief

17. To direct, organize, and distribute the forces of air, sea, and land according to the needs of national security;

- Designation of commander in chief

18. To assume, in cases of war, the supreme leadership of the Armed Forces;

- Advisory bodies to the head of state
- Power to declare/approve war

19. To declare war with the prior authorization of the law, requiring the President to record having heard the National Security Council, and

- Emergency provisions

20. To care for the collection of public revenues and to order their conversion according to the law. The President of the Republic, with the signature of all the Ministers of State, may order payments not authorized by law in order to attend to unpostponable necessities related to public calamities, foreign aggression, internal unrest, serious damages or danger to national security or to supply resources destined to maintain services that cannot become paralyzed without serious harm to the nation. The total of the orders made for these purposes may not exceed 2% of the expenses authorized by the budgetary law. The Ministers of the State or functionaries that authorize or initiate expenses that contravene that which is set forth in this clause will be responsible, both jointly and personally, for the return of funds and guilty of the crime of mismanagement of the public funds.

- Establishment of cabinet/ministers

## Ministers of the State

- Name/structure of executive(s)

### Article 32

The ministers of the State are the direct and immediate collaborators of the President of the Republic in the governance and administration of the State.

The law will determine the number and organization of the ministers, as well as the order of precedence of the incumbent ministers.

The President of the Republic must entrust to a minister the coordination of the Secretaries of State, with the denomination of Head of Government.

The Cabinet will consist of the ministers in their portfolios. It will meet once a month and may be convened by the President when he deems appropriate.

The President of the Republic will determine the formation of committees of ministers and their membership at will. In all, there must be a functioning Political Committee presided over by the Head of Government that will hold sessions at least once a week.



## Article 33

In order to be named as a minister a person must be Chilean, 21 years of age or older, and meet all the other general requirements for entry into the public administration.

In cases of absence, impediment or the resignation of a minister, or when a vacancy arises for another reason, the vacancy will be filled in the form indicated by the law.

## Article 34

The regulations and decrees of the President of the Republic must be signed by the relevant minister and will not be obeyed without this essential requirement.

Decrees and instructions may be expedited with the signature of the relevant minister, by order of the President of the Republic, according to the norms established by the law.

## Article 35

Ministers will be individually responsible for the acts they sign and jointly responsible for those that they cosign or agree upon with the other ministers.

## Article 36

The ministers and the sub-secretaries may attend the sessions of the Cámara de Diputados or of the Senate, and take part in their debates, with preference in order to have voice, but without the right to vote. However, during a vote they may rectify the concepts used by any Representative or Senator while determining their vote.

Notwithstanding the former clause, the ministers must personally attend the special sessions that the Cámara de Diputados or the Senate convene to inform themselves about matters that, pertaining to the scope of powers of the corresponding Secretaries of State, they agree to deal with. In no case will this appearance compromise the political responsibility of the Ministers of the State.

## Article 37

The role of Minister of the State is not compatible with any other role, employment, or commission paid through public or private funds. Teaching positions are exempt according to the law. By the single act of accepting the nomination, the minister will cease all incompatible roles, employment, functions, or commissions.

## General Basis for the Administration of the State

## Article 38

An organic constitutional law will determine the basic organization of the public administration, it will guarantee the civil service career and the principles of a technical and professional character in which it ought to be based, and it will ensure equality of opportunity to enter into the public administration as well as the capacity building and training of its members.

Notwithstanding the prior clause and the specificities of each government department, their bylaws and legal status, all persons remunerated by the Treasury will be subject to the same legal regime and to a common scale of remunerations.

Any person that has their rights violated by the administration of the State, by its organizations, or by the municipalities may bring a claim before the tribunals that determine the law, without prejudice of the responsibility that it may cause to the functionary that caused the act or to the authority that authorized the act.

The organs of the administration of the State, its organizations or the municipalities will be responsible for the damages caused by a lack of service.

## States of Constitutional Exception

### Article 39

The exercise of the rights and guarantees that the Constitution provides to all people may only be affected under the following conditions of constitutional exception: internal or external warfare, internal unrest, or public emergencies and calamities when they seriously affect the normal development of the institutions of the state.

The constitutional protection of these exceptions to the normal operation of rights established in the prior clause does not prevent the damages produced by their verification from being subject to the legal actions that may result.

### Article 40

The state of alert, in case of external warfare, and the state of siege, in case of internal warfare or serious internal unrest, will be declared by the President of the Republic with the approval of the National Congress.

The declaration must determine the zones affected by the corresponding state of constitutional exception.

The National Congress, within a period of five days after the date on which the President of the Republic submits the declaration of a state of alert or a state of siege for consideration, must accept or reject the proposal, without being able to introduce modifications to the declaration. If the Congress does not release a decision within this time period, it will be understood as an approval of the proposition of the President.

However, the President of the Republic may immediately apply the state of alert or a state of siege while the Congress considers the declaration, but the President may only restrict the exercise of the right of assembly during this period. The means adopted by the President of the Republic while the National Congress is not meeting may be revised by the tribunals of justice, without the provisions of article 45 being applicable. The declaration of a state of siege may only be made for a period of fifteen days, without prejudice to the President of the Republic's ability to request its prorogation. The state of alert will remain in effect for as long as a state of external war continues, unless the President of the Republic suspends it prior to the end of the external war.

### Article 41

The state of catastrophe; in the case of a public calamity, the President of the Republic will determine the affected zones and announce a state of catastrophe.

The President of the Republic will be obligated to inform the National Congress of the methods adopted due to the state of catastrophe. The National Congress may leave the declaration without effect after 180 days if the reasons that motivated it were ceased in an absolute form. In all, the President of the Republic may only declare a state of catastrophe for a period longer than a year with the approval of the National Congress. This agreement will proceed in the form established in the third

clause of article 40.

Once a state of catastrophe is declared, the areas indicated as being affected will be under the immediate subordination of the Chief of National Defense designated by the President of the Republic. The Chief of National Defense will assume the direction and supervision of his or her jurisdiction with the attributes and rights indicated by the law.

## Article 42

The state of emergency: in case of a serious change in public order or serious damage to national security, the President of the Republic will declare a state of emergency, indicating the areas affected by said circumstances. The state of emergency may not extend for longer than fifteen days, without prejudice to the President of the Republic's ability to prorogate it for an equal time period. However, further extensions will always require the President to request the approval of the National Congress. The referred to approval will proceed in the form established in the third clause of article 40.

Upon declaration of a state of emergency, the affected areas will remain under the immediate subordination of the Chief of National Defense designated by the President of the Republic. The Chief of National Defense will assume the direction and supervision of his or her jurisdiction with the attributes and rights indicated by the law.

The President of the Republic will be obligated to inform the National Congress of the methods adopted due to the state of emergency.

## Article 43

Upon the declaration of a state of alert, the President of the Republic will remain empowered to suspend or restrain personal liberties, the right of assembly and the freedom to work. The President may also restrict the freedom of association, intercept, open or register documents and all classes of communication, order the seizure of goods, and establish limits on the exercise of property rights.

Upon the declaration of a state of siege, the President of the Republic may restrict the freedom of movement and arrest persons in their own homes or in places determined by the law, as long as they are not prisons or places intended for use as detention facilities or the imprisonment of common criminals. Additionally, the President may also suspend or restrict the freedom of assembly.

Upon the declaration of a state of catastrophe, the President of the Republic may restrict the freedoms of movement and assembly. The President may also order the seizure of goods, establish limits on the exercise of the rights to property, and adopt any extraordinary administrative means that are necessary to the speedy reestablishment of normality within the affected area. Upon the declaration of a state of emergency, the President of the Republic may restrict the freedoms of movement and assembly.

## Article 44

An organic constitutional law will regulate the states of exception, as well as their declaration and the application of the legal and administrative methods that will be permitted during them. Said law will account for that which is strictly necessary for the speedy reestablishment of constitutional normality and may not affect the competences or the functioning of the constitutional organs nor of the rights and immunities of their respective office holders.

The methods adopted during states of exception may not, under any circumstances, be prolonged beyond the period of the state of exception.

## Article 45

The tribunals of justice may not qualify the basis or the facts invoked by the authority to decree the states of exception, without prejudice to the provisions of article 39. Nonetheless, with respect to the particular actions that affect constitutional rights, the guarantee to appeal to the legal authorities will always exist through the corresponding resources.

The requisitions practiced will give place to compensation for damages according to the law. When limits imposed on property rights cause deprivation of some of their attributes or essential faculties, thereby causing damage, there will be the right to indemnization.

## Chapter V: The National Congress

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### Article 46

The National Congress is composed of two houses: the Camara de Diputados and the Senate. Both participate in the formation of the laws according to the Constitution and have the other attributes established by the constitution.

Representatives and Senators represent the entire Republic and are independent of all orders that are counter to their conscience.

### Composition and Generation of the Camara de Diputados and the Senate

### Article 47

The Camara de Diputados will completely renew its membership every four years.

### Article 48

To be elected as a representative requires a person to have citizenship with the right to vote, twenty-one years of age, and have completed secondary school or the equivalent.

### Article 49

The Senate is composed of members that are directly elected by senatorial districts, in consideration of the regions of the country, each region will constitute at least one district. The respective organic constitutional law will determine the number of senators, the senatorial districts, and the form of the election.

Senators' terms will last for eight years and elections will alternate so that they may be held every four years in the form determined by the respective organic constitutional law.

• Structure of legislative chamber(s)

• Electoral districts  
• Size of first chamber  
• First chamber selection  
• Term length for first chamber

• Minimum age for first chamber  
• Eligibility for first chamber

• Electoral districts  
• Size of second chamber  
• Second chamber selection

• Term length of second chamber

## Article 50

To be elected as a senator requires a person to have citizenship with the right to vote, have completed secondary school or the equivalent, and have reached thirty-five years of age by the day of the election.

## Article 51

The elections for representatives and senators will be held jointly. Members of the National Congress may be reelected for their role up to two times.

Vacancies for representative or senatorial roles will be filled by a citizen that is elected in the complementary election to be held sixty days after the vacancy.

## Exclusive Powers of the Camara de Diputados

### Article 52

The exclusive powers of the Camara de Diputados are the following:

1. To monitor the actions of the government. In order to exercise this power, the Camara de Diputados may:

- a. Adopt agreements or suggest comments, with the vote of the majority of the representatives present, that will be sent to the President of the Republic, who must provide a well-founded response through the corresponding Ministry of the State within thirty days.

Notwithstanding the former clause, any Representative may request specific background information from the Government with a favorable vote of a third of the present members of the Cámara. The President of the Republic will issue a response through the corresponding Ministry of the State within the same period indicated by the previous paragraph.

In no case may the accords, comments, or requests for records affect the political responsibility of the Ministers of State;

- b. To cite a Minister of the State following a petition of at least a third of the representatives in office, with the purpose of questioning the Minister in relation to issues regarding the exercise of his or her office. In all, a single Minister may not be cited for this purpose more than three times within a calendar year without a prior agreement of an absolute majority of the representatives in office.

The attendance of the Minister will be obligatory and the Minister must respond to the questions that motivate the citation, and

- Minimum age for second chamber
- Eligibility for second chamber

- Term limits for first chamber
- Term limits of second chamber

- Replacement of legislators

- Legislative oversight of the executive

- c. To create special investigative commissions at the petition of at least two fifths of the representatives in office with the singular purpose of collecting information related to specific acts of the Government. In no case may the issues dealt with in these investigative commissions overlap with those that are under investigation by the Public Ministry or currently within an ongoing legal process.

At the petition of a third of their members, the investigative commissions may issue citations and request background information. When cited by these commissions, the Ministers of the State, other employees of the administration, and the personnel of State businesses or those businesses in which the State has majority participation will be obligated to appear and to provide the background information and other information requested by the commissions, with the exception of those that are covered under article 8 of this Constitution and the concerned laws, whose public access is limited or the access to them is denied.

The Ministers of the State may not be cited more than three times by the same investigative commission without a prior agreement of an absolute majority of the members of the commission.

The organic constitutional law of the National Congress will regulate the functioning and the powers of the investigative commissions as well as the form in which the rights of persons cited or mentioned in them will be protected.

2. To declare whether accusations are valid that are made by no less than ten nor more than twenty of its members against the following persons:

- a. The President of the Republic, for acts of his or her administration that have seriously compromised the honor or the security of the Nation, or openly infringed the Constitution or the laws. This accusation may take place while the President is in office and in the six months following the expiration of his or her term.
- b. The Ministers of the State, for having seriously compromised the honor or security of the Nation, for infringing the Constitution or the laws, or having left laws unenforced, and for the crimes of treason, graft, embezzlement of public funds, and bribery;
- c. The magistrate of the superior courts of justice, the Ministers of the Constitutional Tribunal, the Comptroller General of the Republic, the National Attorney General of the Public Ministry, the President of the Council of Defense of the State, the President of the Central Bank, and the President of the Electoral Service for notable neglect of their duties;
- d. The generals or admirals of the institutions pertaining to the Forces of National Defense, the generals, the Director General, the prefectos generales and prefectos inspectores of the Forces of Order and Public Security for having compromised the efficacy of law, public order, public security, or seriously infringed upon the Constitution, and

• Head of state removal

• Cabinet removal

• Constitutional court removal  
• Supreme/ordinary court judge removal

- e. The regional presidential delegates, provincial presidential delegates, and the authority exercised by the Government in the special territories referred to in article 129, for violation of the Constitution and for the crimes of treason, sedition, embezzlement of public funds, and graft.

An accusation will be issued in accordance with the organic constitutional law related to the Congress.

The accusations referred to in letters b), c), d), and e) may take place while the accused is in office or in the three months after the expiration of the accused's term. In the case of the accusation referred to in letter a) the prior period will be six months. Once an accusation is issued, the accused may not leave the country without permission of the Cámara and may not do so in any case if the accusation is already approved by the Cámara.

To declare that an accusation against the President of the Republic is valid will require the vote of the majority of the representatives in office.

In the other cases a majority vote of the present representatives will be required and the accused will remain suspended from his or her functions from the moment in which the Cámara declares that the accusation is valid. The suspension will cease if the Senate rejects the accusation or if a pronouncement is not made within the following thirty days.

Any action that contravenes the norms set forth in this article is null and will carry the legal consequences set forth in the Constitution and the law.

## Exclusive Powers of the Senate

### Article 53

The exclusive powers of the Senate are:

1. To know the accusations that the Cámara de Diputados files according to the prior article.

The Senate will decide as a jury and will limit itself to declare whether the accused is or is not guilty of the crime, infraction, or abuse of power that he or she is accused of.

The declaration of culpability will be pronounced by the two thirds of the senators in office when dealing with an accusation against the President of the Republic, and by a majority of the senators in office in other cases.

Upon a declaration of guilt, the accused will be removed from office and may not perform any public function, whether popularly elected or not for the period of five years. Of this sanction, the affected authority may appeal before the Constitutional Tribunal in the period of five days. If the accused authority is absolved, he or she will have the right to demand compensation before the competent court of justice for the moral damages caused.

Once declared guilty, a functionary will be judged according to the laws by a competent court in order to apply the penalty indicated for the crime, if there is one, as well as to make the civil responsibility for the damages and harms caused to the State or to individuals effective;

2. To decide the validity and admissibility of the legal actions that any person intends to initiate against a Minister of the State, motivated by the harms that may have been suffered unjustly due to an act of the Minister in the course of his or her duty;
3. To know the conflicts that take place between the administrative or political authorities and the legal tribunals;
4. To give or not give consent to the acts of the President of the Republic in the cases in which the Constitution or the laws require it.

If the Senate does not issue a pronouncement within thirty days after the request for urgency by the President of the Republic, they will have been understood to have granted their agreement;

5. To grant their agreement so that the President of the Republic may leave the country for longer than thirty days, counting from the day indicated in the third clause of article 24;
6. To declare the inability of the President of the Republic or of the President elect when a physical or mental impediment inhibits the exercise of his or her duties; and also to declare, when the President of the Republic resigns from his or her position, if the motives behind the resignation have merit and, in consequence, to approve or reject the resignation. In both cases the Constitutional Tribunal must hear the case first;
7. To approve, by a majority of the members in office, the declaration of the Constitutional Tribunal referred to in number 9 of article 94;
8. To approve, in a session especially convened for the purpose and with a vote of approval from two thirds of the Senators in office, the designation of the ministers and judicial prosecutors of the Supreme Court and the Nacional Prosecutor.
9. To give its report to the President of the Republic in cases that it is requested.

In the case of the nominations established in number 8) and prior to a vote, the proposed candidates must deliver a presentation of their nomination to the respective position in a special session before the entire Senate.

The Senate, its commissions, and its other organs, including the parliamentary committees if there are any, may not monitor the acts of the Government or of the entities that depend upon it, nor may it adopt agreements that imply monitoring.

• Cabinet selection

• Legislative committees



## Exclusive Powers of the Congress

### Article 54

The powers of the congress are:

1. To approve or disapprove of the international treaties presented by the President of the Republic prior to their ratification. The approval of a treaty will require the corresponding quorum in both houses in accordance with article 67, and will be subject to the procedures of a law in pertinent matters.

The President of the Republic will inform the Congress about the provisions and the scope of the treaty, as well as the reservations that the President intends to confirm or to make.

The Congress may suggest the formulation of reservations and interpretive declarations to an international treaty, in the course of processing its approval,

The methods adopted by the President of the Republic or the agreements that the President makes in order to comply with a treaty in force will not require a new approval by the Congress, unless it involves matters under the domain of the law. Treaties made by the President of the Republic in the exercise of the President's regulatory power will not require the approval of the Congress.

The provisions of a treaty may only be repealed, modified, or suspended in the form anticipated by those same treaties or according to the general norms of international law.

The exclusive power to denounce a treaty or to withdraw the country from a treaty, for which the President will request the opinion of both houses of the Congress, in the case of treaties that have been approved by the Congress. Once the denouncement or the withdrawal becomes effective according to the provisions of the international treaty, it will cease to have an effect in the Chilean legal order.

In the case of a denouncement or a withdrawal of a treaty that was approved by the Congress, the President of the Republic must inform the Congress of it within fifteen days of the action.

The withdrawal of a reservation that was made by the President of the Republic and that took into consideration the National Congress at the moment of its approval will require prior approval of the National Congress, in accordance with the provisions of an organic constitutional law. The National Congress must issue a pronouncement within thirty days of the receipt of the official communication in which the pertinent agreement was issued. If a pronouncement is not issued within thirty days, the withdrawal of the reservation will be approved.

• International law  
• Treaty ratification

• Customary international law

In accordance with the law, the Congress must give the necessary publicity to acts related to the international treaty, such as its entrance into force, the creation and withdrawal of a reservation, an interpretive declaration, an objection to a reservation or its withdrawal, as well as the denouncement, withdrawal, suspension, termination, or nullification of the treaty.

In the treaty's approval agreement the Congress may authorize the President of the Republic to command the provisions of the treaty with the force of law deemed necessary for proper compliance, being applicable in this case the provisions of article 65, its second clause and the subsequent clauses, and

2. The Congress will issue a pronouncement with respect to the states of constitutional exception in the form prescribed by the third clause of article 40.

## Operations of the Congress

### Article 55

The National Congress will meet and initiate its period of sessions in the form determined by its organic constitutional law.

In any case, it will be understood to always be fully empowered to consider declarations of states of constitutional exception.

The organic constitutional law indicated in the first clause will regulate the transmission of constitutional accusations, the qualification of urgency according to the provisions of article 75 and everything related to the internal transmission of the law.

### Article 56

The Cámara de Diputados and the Senate may not enter into sessions nor may they adopt accords without the attendance of half of the members in office.

Each of the houses will establish the closing of debate by simple majority within their rules.

### Article 57

During the month of July of each year, the President of the Senate and the President of the Cámara de Diputados will publically deliver an account of the activities realized by the corporations presided over by the Congress in a full session.

The regulations of each house will determine the content of this public address and will regulate the form in which this obligation will be met.

## Norms for the Representatives and Senators

### Article 58

The following may not be candidates for Representative or Senator:

• Emergency provisions

• Quorum for legislative sessions

• Leader of first chamber  
• Leader of second chamber

• Eligibility for first chamber  
• Eligibility for second chamber

• Eligibility for cabinet

1. Ministers of the State;
2. Regional presidential delegates, provincial presidential delegates, regional governors, mayors, regional councilors, provincial councilors, or the subsecretaries;
3. The members of the Council of the Central Bank;
4. The magistrates of the superior tribunals of justice and the career judges;
5. The members of the Constitutional Tribunal, the Tribunal Calificador de Elecciones, and the regional electoral tribunals;
6. The Comptroller General of the nation;
7. The natural persons and the managers or administrators of juridical persons that contract with the State;
8. The Nacional Prosecutor, the regional district attorneys, or the prosecutors of the Public Ministry, and
9. The Commanders in Chief of the Army, the Navy and the Air Force, the Director General of the Carabineiros, the Director General of the Policia de Investigaciones and the officials pertaining to the Armed Forces and the Forces of Order and Public Security.

The exclusions established in this article will be applicable to those who have the qualities or occupy the previously mentioned roles within the year immediately prior to the election, with the exceptions of persons mentioned in numbers 7 and 8, who are not required to meet this requirement at the time they register their candidacy and persons indicated in number 9, for whom the period of exclusion will be two years prior to the election. If they were not elected in an election, they may not return to the same role nor may they be designated for similar roles to those they held until a year after the election.

• Outside professions of legislators

## Article 59

A role within the Congress is incompatible with any other role, employment, or commission paid by public or private funds. The exceptions are teaching roles in accordance with the law. A representative or a Senator will cease operating another role upon their proclamation by the Tribunal Calificador de Elecciones.

• Outside professions of legislators

## Article 60

No Representative or Senator, from the moment of their proclamation by the Tribunal Calificador de Elecciones may be nominated for an employment, function, or commission referred to in the prior article.

This provision does not apply in cases of external war; nor does it apply to the roles of President of the Republic, Minister of State, or diplomatic agents; only the roles conferred during a state of war are compatible with the functions of Representative or Senator.

## Article 61

A Representative or Senator who leaves the country for longer than thirty days without the permission of the house he or she belongs to or, when their house is in recess, the permission of their house's President will cease their role.

A Representative or Senator that contracts with the State or that acts as an attorney or agent in private transactions of an administrative character, in the provision of public employments, counsellorships, functions or commissions of a similar nature during the exercise of their office will cease their role.

The exclusion referred to within the prior clause will take place whether the Representative or Senator acts for him or herself, for a natural or juridical person, or through a society of persons of which the Representative or Senator is a member.

A Representative or Senator that acts as a lawyer or agent in any class of trial and exercises any influence over the administrative or judicial authorities will cease their role. An equal sanction will apply to members of Congress that promote constitutional accusations through issues related to their private interests.

Without prejudice to the provisions of number 22 of article 19, a Representative or Senator that incites, through speech or through writing, an alteration in public order or promotes change or instability in the institutional legal order through means other than those established by this Constitution, such as abusive use of those means, or that compromises the security or honor of the nation will cease their role.

Whoever loses their role as Representative or Senator for any of the reasons previously indicated may not pursue any public employment or function, whether popularly elected or not, for a period of two years, except in the cases of number 22 of article 19, in which the sanctions outlined in that article will be applied.

A Representative or Senator that seriously infringes the norms established regarding transparency, as well as limits and control on electoral spending, will cease in their role from the date declared through a firm sentence issued by the Tribunal Calificador de Elecciones, upon the request of the Consejo Directivo del Servicio Electoral. An organic constitutional law will indicate the cases in which a serious infraction exists. Additionally, a Representative or Senator that loses their role may not pursue any public employment or function, whether popularly elected or not, for a period of three years, nor may he or she be a candidate to popularly elected roles in the two elections immediately following his or her cessation.

A Representative or Senator will also cease their role if, during the exercise of their role, he or she becomes ineligible or enters into one of the aforementioned causes of exclusion from article 58, without prejudice to the exception contemplated in the second clause of article 60 regarding the Ministers of the State.

Representatives or Senators may resign from their roles when they are affected by a serious illness that impedes their ability to fulfill their role and the Constitutional Tribunal qualifies it to be so.

## Article 62

Representatives and Senators are only inviolable for the opinions they manifest and the votes that they cast while fulfilling their duties, in sessions or commissions. This immunity does not apply in all public activity outside of the National Congress, even when the congressperson acts within his or her capacity as a parliamentarian.

No Representative or Senator, from the day of their election or from the day they are sworn in, depending on the case, may be accused or deprived of their liberty, except in the case of flagrant crimes, if the appellate court of the respective jurisdiction, in plenum, does not grant prior authorization declaring that the accusations have merit. This resolution may be appealed to the Supreme Court.

In the case a Representative or Senator is arrested for a flagrant crime, he or she will immediately be placed before the respective appellate court with the corresponding summary information. The tribunal will proceed according to the provisions of the former clause.

From the moment that a firm resolution that the charges have merit is declared, the accused Representative or Senator will be suspended from their role and subject to competent judgement.

## Article 63

Representatives and Senators will receive a salary equivalent to the remuneration of a Minister of the State, including all the allowances that correspond to the role.

## Matters of Law

### Article 64

The only matters of the law are:

1. Those that in virtue of the Constitution must be objects of organic constitutional laws;
2. Those that the Constitution demands be regulated by a law;
3. Those that are an object of codification, be it civil, commercial, procedural, penal, or other;
4. The basic materials related to the legal regimes covering labor, unions, provisional, and social security;
5. Those that regulate public honors to great servants;
6. Those that modify the form or characteristics of the national emblems;
7. Those that authorize the State, its organisms and the municipalities, to contract loans, which must be for the purpose of financing specific projects. The law must indicate the sources of resources that will be used for debt service. However, a law will be required to authorize the contract of those loans whose expiration exceeds the duration of the term of the current President.

The provisions of this number do not apply to the central bank;

8. Those that authorize the performance of any class of operations that may directly or indirectly compromise the credit or the financial responsibility of the State, its organizations, and the municipalities.

This provision does not apply to the central bank;

9. Those that deal with the norms according to which the businesses of the State and those in which the State participates may control loans, those that in no case may be carried out with the State, its organizations or businesses;
10. Those that deal with the norms regarding the transfer of goods of the State or of the municipalities and regarding their rental or concession;
11. Those that establish or modify the political or administrative division of the country;
12. Those that indicate the value, type, and denomination of the currency and the system of weights and measures;
13. Those that deal with the forces of air, sea, and land that must be maintained in times of peace or war, and the norms to permit the entrances of foreign troops in the territory of the Republic, as well as the exit of national troops from the country;
14. The others that the Constitution indicates as executive orders of the President of the Republic;
15. Those that authorize declarations of war, upon proposal by the President of the Republic;
16. Those that grant general pardons and amnesties as well as those that deal with the general norms according to which the power of the President of the Republic to grant individual pardons and pensions of grace ought to be exercised.

The laws that grant general pardons and amnesties require an organic constitutional quorum. However, this quorum will be of two thirds of the Representatives and Senators in office when the crimes considered in article 9 are at issue.

17. Those that indicate the city in which the President of the Republic must reside, the city in which the National Congress must hold its sessions, and the city in which the Supreme Court and the Constitutional Tribunal must function;
18. Those that focus on the basis of the procedures that govern the acts of the public administration;
19. Those that regulate the functioning of lotteries, racetracks, and gambling in general, and
20. Any other norm of an obligatory and general character that establishes the essential bases of a legal order.

• Power to declare/approve war

## Article 65

The President of the Republic may request authorization from the National Congress to issue orders with the force of law during a period no longer than a year with regard to materials that correspond to the dominion of the law.

This authorization may not extend to the nationality, citizenship, the elections nor to plebiscites, neither may it apply to material included in the constitutional guarantees or material that must be an object of an organic constitutional law.

The authorization may not include powers that affect the organization, attributes, and rules of the functionaries of the Judiciary, the National Congress, the Constitutional Tribunal, nor of the Comptroller General of the Republic.

The law that grants this authorization will indicate the precise material this delegation of power will apply to and may establish or determine the limitations, restrictions, and formalities deemed to be convenient.

Notwithstanding the provisions of the prior clauses, the President of the Republic will remain authorized to set the revised, coordinated, and systematized text of the laws when it is convenient for their improved execution. In the exercise of this faculty, the President of the Republic may introduce the changes if they are indispensable, without altering, in any case, their true meaning and purpose.

The responsibility to review decrees with the force of law corresponds to the Comptroller General of the Republic, requiring him or her to reject them when they exceed or contravene the referred to authorization.

The decrees with the force of law will be held, during their publication, and their time in force, to the same norms that govern the law.

## The Formation of Laws

### Article 66

The laws may have origin in the Cámara de Diputados or in the Senate, through a message delivered by the President of the Republic or through a motion of any of their members. Motions may not be signed by more than ten Representatives nor by more than five Senators.

An initiative may be presented to the Congress if presented by five percent of the citizens with the right to vote, with a preference that it be delivered and dispatched as determined by the organic constitutional law regarding the National Congress. Matters that are exclusive initiatives of an organ of the State may not be an object of popular initiative.

The laws regarding taxes of any nature, about the budgets of the Public Administration and about recruitment may only originate in the Cámara de Diputados. The laws regarding amnesty and regarding general pardons may only originate in the Senate.

The exclusive initiative for legal projects related to the alteration of the political or administrative division of the country, or with the financial administration or budgeting of the State, including modifications of the Budgetary Law, as well as the materials indicated in numbers 10 and 13 of article 64 will correspond to the President of the Republic.

- Head of state decree power

- Division of labor between chambers
- Initiation of general legislation

- Legislative initiatives by citizens

- Budget bills
- First chamber reserved policy areas
- Tax bills
- Second chamber reserved policy areas

- Budget bills

• Head of state powers

Additionally, the President of the Republic will also have the exclusive initiative:

1. To impose, suppress, reduce, or to condone taxes of any class or nature, to establish exemptions or to modify the existing exemptions, and to determine their form, proportionality or progression;
2. To create new public services or paid employment, whether they are of the State, semipublic, autonomous, or a part of the businesses of the State; to rescind them and to determine their functions or powers;
3. To contract loans or initiate any other class of operations that may commit the credit or the financial responsibility of the State, the semi-fiscal, the autonomous entities of the regional governments or the municipalities, and to condone, reduce or modify obligations, interests or other financial burdens of any nature established in favor of the Treasury or of the organizations or entities referred to;
4. To set, modify, grant, or increase remuneration, retirements, pensions, widows and orphans allowances, rents and any other class of emolument, loan, or benefit to the staff in service or in retirement and to the beneficiaries of widows and orphans allowances, as necessary, of the Public Administration and the other organizations and entities previously indicated, as well as to set the minimum remunerations of the workers of the private sector, to obligatorily increase their remunerations and other economic benefits or to alter the bases that serve to determine them; all without prejudice to the provisions of the following numbers;

The National Congress may accept, diminish or reject the services, jobs, emoluments, loans, benefits, expenses and other initiatives regarding the materials proposed by the President of the Republic.

• Organic laws

## Article 67

The legal norms that interpret constitutional precepts and the legal norms that the Constitution confers the status of an organic constitutional law upon, will be approved, modified, and abolished by the absolute majority of the Representatives and Senators in office.

The other legal norms will require the majority of the members of each house, or the majorities necessary according to the constitution.

## Article 68

The proposed Budgetary Law must be presented by the President of the Republic to the National Congress at least three months prior to the date on which the Budgetary Law will take effect; and if the Congress will not dispatch the Budgetary Law within the sixty days following its presentation, the proposal presented by the President of the Republic will govern.

The estimation of the resources that the Budgetary Law and the new resources that are established by any other legal initiative would require will correspond exclusively to the President, with prior notification from the respective technical organization.

The Congress may not approve any new expense from the funds of the nation without at the same time indicating the sources of resources necessary to attend to said expense.

• Balanced budget  
• Budget bills



If the source of resources granted by the Congress is insufficient to finance any new expense approved by it, the President of the Republic, upon promulgating the law, with a favorable prior notification from the service or institution through which the new deposits are collected and endorsed by the Comptroller General of the Republic, must reassign or reduce costs to cover said insufficiency.

## Article 69

Once presented, a legal proposal must take account of this in a session of the respective house prior to its study by one or more commissions or by the Sala de la Corporación. Special commissions may be established. An organic constitutional law will regulate the formation of the law on matters not covered within this Constitution.

A proposal rejected in general in the house of its origin may not be renovated until after a year. However, the President of the Republic, in the case of a project of his or her own initiative, may solicit that the message passes to the other house and, if it is approved in general by an absolute majority of its present members, it will return to the house it originated within and will only be considered rejected if this house rejects it with a vote of two thirds of its present members.

The discussions, bases and votes about the legal proposals will be public, except in the cases where their materials are covered under article 8 of this Constitution.

Any person or group of persons interested in expressing their opinions about any legal project have the right to be heard before the commissions of the respective house in the form and conditions established by its organic law.

## Article 70

Any project may be subject to addition or correction in the corresponding processes, in both the Cámara de Diputados and in the Senate; however, in no case will ideas without direct relation to the fundamental ideas of the project be admitted.

Once approved in the house of origin, it will pass immediately to the other for discussion.

## Article 71

A proposal which is rejected in its totality by the revising house will be considered by a mixed commission of an equal number of Representatives and Senators, which will propose the form and mode of resolving the difficulties. The proposal of the mixed commission will return to the house of origin and, to be approved in both the house of origin as well as the revising house, it will require a majority vote of the members from both houses. If the mixed commission does not reach an agreement, or if the house of origin rejects the proposal of this commission, the President of the Republic may request that the revising house declares whether it insists through a vote on the proposal that it approved, requiring a two thirds vote of its present members. Upon the insistence of the revising house, the project will pass to the house that rejected it and will only be understood to be reapproved by the revising house if two thirds of the present members concur.

## Article 72

A proposal that is added or amended by the revising house will return to the house of origin, and additions and amendments will be approved in this house with a majority vote of the present members.

If the additions or amendments are not approved, a mixed commission will be formed and will proceed in the same form as indicated in the previous article. In the case that the mixed commission does not produce an agreement to resolve the divergences between the two houses, or if one of the houses rejects the proposal of the mixed commission, the President of the Republic may solicit the house of origin to newly consider the second proposal by the revising house. If the house of origin rejects the addition or modification with two thirds of its present members, there will be no law in this part or in its totality; however, if there is a majority in favor of rejection less than two thirds, the project will pass to the revising house, and will be understood to have been approved with the vote of two thirds of the members of the revising house.

## Article 73

Once approved by both houses, a project will be returned to the President of the Republic, who, if he or she also approves, will prepare its promulgation as a law.

## Article 74

If the President of the Republic disapproves the project, it will be returned to the house of origin with relevant observations within the period of thirty days.

In no case will observations without direct relevance to the fundamental ideas of the project be admitted, except those considered in the respective message.

If both houses approve the observations, the project will take effect as a law and its promulgation will be the responsibility of the President.

If both houses disapprove of some or all of the observations and insist, through a two thirds vote of their present members, on part of or the entire project approved by them, its promulgation will be the responsibility of the President.

## Article 75

The President of the Republic may create urgency in the dispatch of a proposal, in one or in all stages of the process, and in such cases, the respective house must issue a pronouncement within the maximum period of thirty days.

The responsibility to justify the urgency will correspond to the President of the Republic according to the organic constitutional law related to the Congress, which will establish everything related to the internal processing of the law.

## Article 76

If the President of the Republic does not return the project within thirty days, beginning the date of its remission, it will be understood that the President approves it and will promulgate it as law.

Promulgation must be made within the periods of ten days, counted from the moment in which it is appropriate.

Publication will occur within five working days after the date on which the promulgation decree is completely processed.

• Approval of general legislation

• Approval of general legislation  
• Veto override procedure

• Approval of general legislation

## Chapter VI: Judiciary

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### Article 77

The ability to hear civil and criminal cases, to resolve them and to enforce judgements pertains exclusively to the courts established by the law. Neither the President of the Republic, the Ministers of the State, nor the Congress may, under any circumstances, exercise judicial functions, take over pending cases, revise the grounds for or the contents of their resolutions or revive closed cases. Any contravention of this norm is null, according to article 7 of this Constitution.

Having reclaimed their intervention in a legal form and in business within their competence, the courts may not excuse themselves from exercising their authority, not even due to a lack of law that resolves the dispute or issues submitted for their decision

In order to execute their resolutions and to enforce or to ensure the enforcement of the acts of instruction determined by the law, the ordinary and special courts of justice that form a part of the Judiciary may issue direct orders to the public force or exercise the conducive means of action that they arrange. The other courts will do so in the form indicated by the law.

The required authority must comply with the judicial mandate without further delay and may not qualify the grounds or opportunity, nor the justice or legality of the resolution the court attempts to execute.

### Article 78

An organic constitutional law will determine the organization and attributes of the courts that are necessary for the swift and complete administration of justice in the entire territory of the republic. The same law will indicate the qualities that judges must possess as well as the number of years that persons nominated for positions on the courts must have worked as a lawyer. Additionally, an organic constitutional law will determine and regulate those functions outside the jurisdictions of the courts.

The organic constitutional law related to the organization and attributes of the courts may only be modified following a hearing in the Supreme Court according to the provisions of the respective organic constitutional law.

The Supreme Court must issue a pronouncement within a period of thirty days after the receipt of the official communication in which the pertinent opinion is requested.

However, if the President of the Republic has made a state of urgency present with regard to the matter under consideration, the President will communicate this to the court.

In said cases, the court must rule within the period implied by the respective urgency.

If the Supreme Court does not release an opinion within the specified periods, the procedure will be concluded.

The organic constitutional law related to the organization and attributes of the courts, as well as the procedural laws that regulate a system of prosecution, may set different dates for its entrance into force within the diverse regions of the national territory. Notwithstanding the prior, the timeline for the entrance into force of said laws throughout the country may not exceed four years.

- Eligibility for supreme court judges
- Eligibility for ordinary court judges

## Article 79

With regard to the nomination of judges, the law will adjust to the following general precepts.

The Supreme Court will be composed of twenty-one ministers.

The ministers and the judicial prosecutors of the Supreme Court will be nominated by the President of the Republic, selecting them from a list of five persons that, in all cases, will be proposed by the Supreme Court itself and with the agreement of the Senate. The Senate will adopt the respective agreements with a vote of two thirds of the members in office in a session especially convened for this purpose and following the agreement of the majority of the Senators within the Commission for the Constitution, Legislation, Justice and Regulation of the Corporation. If the Senate does not approve the proposition of the President of the Republic, the Supreme Court must complete the five-person list proposing a new nomination to substitute for the rejected nomination, repeating the procedure until a nomination is approved.

Five of the members of the Supreme Court must be lawyers external to the administration of justice, have at least fifteen years of certification, have served within the profession or a university and meet the other requirements indicated by the respective organic constitutional law.

When filling a position that corresponds to a member of the Judiciary, the Supreme Court will form the list of nominations exclusively with members of this court and the senior minister of the Court of Appeals that appears on the list of merit must occupy a place on the list of nominations. The other four positions will be filled according to the merits of the candidates. When seeking to fill a vacancy corresponding to lawyers external to the administration of justice, the list of nominations will be formulated exclusively with lawyers that meet the requirements indicated in the fourth clause.

The ministers and judicial prosecutors of the Courts of Appeals will be designated by the President of the Republic, from a list of candidates proposed by the Supreme Court.

The career judges will be designated by the President of the Republic, from a list of three candidates proposed by the Court of Appeals within the respective jurisdiction.

The senior career judge, in civil or criminal law, sitting on the court or the senior civil or criminal judge within the position immediately below the position being filled, who also is on the list and expresses interest in the role, will occupy a place on the corresponding three candidate list. The other two places will be filled with attention to the merits of the candidates.

The Supreme Court and the Court of Appeals will form lists of five or three candidates in a plenum especially convened for this purpose, in a single vote in which each member has a right to vote for three or two of the nominees, respectively. The nominees that obtain the five or the three first majorities will be elected, respectively. Ties will be resolved through a lottery.

However, in the case of nominations for ministers of substitute courts, the designation may be made by the Supreme Court and, in the case of the judges, by the respective Court of Appeals. These designations may not last longer than sixty days and may not be extended. In the case that the mentioned superior courts do not use this ability or in the case that the period of substitution has passed, vacancies will be filled in the ordinary form previously indicated.

- Establishment of constitutional court
- Structure of the courts
- Ordinary court selection

- Number of supreme court judges

- Legislative committees
- Supreme court selection

- Eligibility for supreme court judges

- Eligibility for ordinary court judges

- Supreme court selection

## Article 80

The judges are personally responsible for the crimes of bribery, failure to observe the substance of the laws that regulate procedure, denial and distorted administration of justice and, in general, of all prevarication that they enter into in the exercise of their duties.

With regard to the members of the Supreme Court, the law will determine the cases and the mode of enforcing this responsibility.

## Article 81

The judges will remain in their positions during good behavior; however, inferior judges will occupy their respective judgeships for the time period indicated by the law.

Notwithstanding the prior, the judges will cease their functions upon reaching the age of 75; or due to resignation, supervening legal incapacity, or in the case a judge is removed due to a legal cause. The norm related to age will not govern with respect to the President of the Supreme Court, who will continue in his or her role until the end of his or her term.

In any case, upon a request of the President of the Republic, at the solicitation of an interested party, or ex officio, the Supreme Court may declare that the judges have not maintained good behavior and, after a report from the accused and from the respective Court of Appeals, if necessary, the Supreme Court may agree to their removal by the majority of its members. These agreements will be communicated to the President of the Republic for his or her compliance.

The Supreme Court, in a plenum especially convened for this purpose and by the absolute majority of its members in office, may authorize or order, rightly, the transfer of the judges and other functionaries and employees of the Judiciary to another role of equal stature.

## Article 82

The magistrates of the superior courts of justice, the judicial prosecutors, and the career judges that form part of the Judiciary may not be apprehended without an order of the competent court, except in cases of flagrant crime or simple offense and only so as to put them immediately before the court that must consider the matter in accordance with the law.

## Article 83

The Supreme Court has the directive, correctional, and economic supremacy over all courts within the nation. An organic constitutional law will regulate the form and exercise of these powers. The Constitutional Tribunal, the Tribunal Calificador de Elecciones, and the regional electoral tribunals are exempt from this norm.

The superior courts of justice, in the use of their disciplinary powers, may only invalidate jurisdictional resolutions in the cases and form established by the respective organic constitutional law.

• Supreme/ordinary court judge removal

• Supreme/ordinary court judge removal  
• Mandatory retirement age for judges

## Chapter VII: Public Ministry

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### Article 84

An autonomous, hierarchical organization of the State, with the name of the Public Ministry, will direct the investigation, in an exclusive form, of the acts that constitute the crime, of those that determine the punishable participation and of those that believe in the innocence of the accused and, when necessary, it will exercise the public penal action in the form indicated by the law. In a similar fashion, the adoption of means to protect the victims and the witnesses will correspond to the Public Ministry. In some cases, it may exercise jurisdictional functions, and in its investigations it must adhere to the requirements set forth in article 19, number 6 of this Constitution. Any act that contravenes these requirements is null and will bring about the correctional and indemnificatory consequences foreseen in the law.

The victim of a crime and other persons determined by the law may equally exercise the penal action.

The Public Ministry may impart direct orders to the Forces of Order and Security during the investigation, without prejudice to its dependence as indicated in article 103 of this document, completely assuming the hierarchical responsibility for the consequences that the exercise of this prerogative may bring about. In all, the acts that deprive, restrict, or perturb the accused or third parties of their exercise of the rights guaranteed by this constitution will require prior written judicial approval from the lead investigator. The required authority must comply with said orders without further delay and may not qualify their grounds, opportunity, justice or legality, except to request the exhibition of the prior judicial authorization previously described.

The exercise of the public penal action and the direction of investigations of the deeds that constitute the crime, of those that determine the punishable participation, and of those that believe in the innocence of the accused in a case that is under consideration in a military tribunal, such as the adoption of means to protect the victims and the witnesses testifying about the corresponding deeds, according to the norms of the Code of Military Justice and to the respective laws, to the organs and to the persons that this code and these laws determine.

### Article 85

An organic constitutional law will determine the organization and powers of the Public Ministry, it will indicate the qualities and requirements that prosecutors must have and meet in order to be nominated and the causes of removal of the adjunct prosecutors in cases not contemplated within the constitution. Persons designated as prosecutors may not have any impediment that would make them unable to perform the duties of a judge. Regional prosecutors and adjuncts will cease in their role upon reaching the age of 75.

The organic constitutional law will establish the level of independence and autonomy as well as the responsibility that prosecutors will have in the direction of the investigation and in the exercise of the public penal action, in the cases of which they are in charge. In all cases, the law will take into account the hierarchical structure of the Public Ministry set forth in article 92.

## Article 86

The National Prosecutor shall be appointed by the President of the Republic, at the proposal of the Supreme Court and with the agreement of the Senate adopted by two-thirds of its members in office, in a session specially convened for this purpose. If the Senate does not approve the proposal of the President of the Republic, the Supreme Court must propose a new name to replace the rejected one, repeating the procedure until an appointment is approved.

The National Prosecutor must have at least ten years of experience as a lawyer, have reached forty years of age and possess the other qualities necessary for citizenship with the right to vote; the National Prosecutor will remain in office for eight years and may not be reappointed in the following period.

The maximum age indicated in the second clause of article 81 will also apply to a National Prosecutor.

## Article 87

A Regional Prosecutor will exist in each of the country's administrative regions, unless the population or the geographic area of the region make it necessary to name more than one.

The regional prosecutors will be nominated by the National Prosecutor, from a three candidate list proposed by the Court of Appeals in the respective region. In the case that there is more than one Court of Appeals within a region, the three candidate list will be formed by a plenum composed of all members, especially convened for this purpose by the President of the court that was created first.

The regional prosecutors must have at least five years of certification as a lawyer, have reached the age of 35 and possess the other qualities necessary to be a citizen with the right to vote; they will remain in office for eight years and may be appointed in the following period in another region, which will not obstruct their ability to be nominated for other roles within the Public Ministry.

## Article 88

The Supreme Court and the Court of Appeals will call for a public competition in order to formulate the five person and three person lists, which will be agreed to by the absolute majority of their members in office, in a plenum especially convoked for this purpose. Pensioned or active members of the Judiciary may not form part of the five person or three person lists.

The five person and three person lists will be formed in a single election in which each member of the plenum will have the right to vote for three or two nominees, respectively. The nominees that obtain the five or the three first majorities, respectively, will be elected. If a tie results, it will be resolved through a lottery.

## Article 89

There will exist adjunct prosecutors that will be designated by the National Prosecutor, selected from the three-person list proposed by the respective regional prosecutor, which must be formed through a public contest in accordance with an organic constitutional law. They must have certification as a lawyer and possess the other qualities necessary to be a citizen with the right to vote.

## Article 90

The National Prosecutor and the regional prosecutors may be removed by the Supreme Court, at the request of the President of the Republic, of the Camara de Diputados, or of ten of its members, for infringing the norms governing the role, incapacity, bad behavior, or negligence in the exercise of his or her functions. The court will learn of the matter in a plenum especially convened for this purpose and, in order to agree to the removal, it must obtain a majority vote in agreement from the members in exercise.

The removal of the regional prosecutors may also be requested by the National Prosecutor.

## Article 91

The provisions of article 82 will apply to the National Prosecutor, the regional prosecutors, and to the adjunct prosecutors.

## Article 92

The National Prosecutor is the superior authority of the Public Ministry, on whom the regional prosecutors and the adjunct prosecutors will hierarchically and directly depend. The National Prosecutor will have the directive, correctional, and economic supremacy over the Public Ministry, according to the respective organic constitutional law.

# Chapter VIII: Constitutional Tribunal

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## Article 93

The Constitutional Tribunal is an organ of the State; it is autonomous and independent of any other authority or power.

The Constitutional Tribunal will be composed of ten members, designated according to the following procedure:

- a. The Supreme Court convenes a public contest to form a three candidate list that will be sent to the President of the Republic.
- b. The President of the Republic proposes one of the nominees from said three candidate list to the two houses of the National Congress.
- c. Each of the houses, with an affirmative vote of at least two thirds of their members in office, give their approval to the candidate.
- d. The President of the Republic designates his or her selection naming them as a Minister of the Constitutional Tribunal.

To comply with the provisions of c), and prior to the vote, the proposed candidate must formulate a presentation of his or her nomination to the respective role in a public special session before the respective house of the National Congress.



- Eligibility for const court judges
- Constitutional court term length

The members of the tribunal will serve for nine years in their positions and they may be partially renewed every three years. They must have at least fifteen years of certification as a lawyer, have served actively within the profession, in a university or publicly, they may not have an impediment that would make them unable to perform the duties of a judge, they will be submitted to the norms of articles 59, 60, and 82, and they may not exercise the profession of lawyering, including judicature, nor any other act of those established in the second and third clauses of article 61.

- Constitutional court term limits
- Constitutional court removal

The members of the Constitutional Tribunal will be irremovable and may not be reelected, except one that has been a replacement and has exercised the role for a period of less than five years. They will cease in their role at the age of 75.

In the case that a member of the Constitutional Tribunal ceases to occupy their role, the member will be replaced by the corresponding person, according to the first clause on this article and for the time period remaining to complete the term of the member who was replaced.

The court will function as a whole or divided into two chambers. In this first case, the quorum to hold a session will be of at least eight members and, in the second case, of at least four. The tribunal will adopt its agreements by simple majority, except in the case that a different quorum is required and will rule in agreement with the law. The tribunal as a whole will definitively resolve the attributes indicated in numbers 1, 3, 4, 5, 6, 7, 8, 9, and 11 of the following article. To exercise the remaining attributes, the tribunal may function as a whole or as separate chambers according to the provisions of the respective organic constitutional law.

An organic constitutional law will determine their organization, function, procedures, and will establish their staffing, the regime of remuneration and the employment statute of their personnel.

- Constitutional court powers

## Article 94

The attributes of the Constitutional Tribunal are:

- Constitutional interpretation
- Legal status of treaties
- Constitutionality of legislation

1. To verify the constitutionality of laws that interpret any precept of the Constitution, the organic constitutional laws, as well as the norms of a treaty that affect materials contained within the constitution or organic constitutional laws prior to their promulgation. The declaration of unconstitutionality of any of these norms must be agreed to by a majority of four fifths of the tribunal's members;
2. To resolve the questions of constitutionality of the general norms issued by the Supreme Court, the Courts of Appeals, and the Tribunal Calificador de Elecciones;
3. To resolve the questions that arise about the constitutionality of a decree with the force of law;
4. To resolve the questions that arise about constitutionality with relation to the convocation of a plebiscite, without prejudice to the powers that correspond to the Tribunal Calificador de Elecciones. Additionally, to resolve the convocation to a plebiscite set forth in the second clause of article 15 by a majority of its members.
5. To resolve, by a majority of its members in office, the inapplicability of a legal precept whose application in any proceeding that takes place before an ordinary or special court produces results contrary to the Constitution;

- Referenda

6. To resolve by a majority of four fifths of its members in exercise, the unconstitutionality of a legal precept declared inapplicable in accordance with the provisions of the prior number.
7. To resolve the complaints in the case that the President of the Republic does not promulgate a law when he or she must do so or promulgates a different text than the constitutionally corresponding text;
8. To resolve the constitutionality of a decree or resolution of the President of the Republic that the Comptroller General of the Republic has deemed unconstitutional, when requested by the President according to article 101;
9. To declare the unconstitutionality of the organizations and the movements or political parties as well as the responsibility of the persons that participated in the deeds that motivated the declaration of unconstitutionality, according to the provisions of number 22 of article 19 of this Constitution. However, if the affected person is the President of the Republic or the President elect, the referred to declaration will also require the agreement of the Senate, adopted by the majority of its members in office;
10. To inform the Senate in the cases referred to in number 6 of article 53 of this constitution;
11. To resolve the disputes regarding competence that arise between the political, administrative, and judicial authorities that do not correspond to the Senate;
12. To resolve the constitutional or legal inabilities that affect a person being designated as a Minister of the State, to remain in said role, or to simultaneously perform other functions;
13. To issue pronouncements about the inabilities, incompatibilities, and orders of cessation in the roles of parliamentarians;
14. To qualify the inability invoked by a parliamentarian in terms of the final clause of article 61 and to issue pronouncements regarding resignations from the role, and
15. To resolve the constitutionality of supreme decrees, regardless of the error invoked, including those that were ordered in the exercise of the autonomous regulatory power of the President of the Republic when they refer to materials that could be reserved to the law by the order of article 64.
16. To resolve, by the majority of its members, the effective protection of rights in response to a violation of constitutional rights, which the rights holder of the action foreseen in article 20 of this document will be subject.

In the case of number 1, the house of origin will send the respective project to the Constitutional Tribunal within the five days following the day in which the

declaration of unconstitutionality is completely processed by the Congress.

In the case of number 2, the tribunal may hear the matter upon the request of the President of the Republic, of any of the houses or of ten of their members. Additionally, requests may be made to the tribunal by any person that is part of a judgement or an action pending before an ordinary or special court, or from the first action of the penal process when it affects the exercise of their fundamental rights due to the provisions of the respective normative statement issued by the court.

In the case of number 3, the question may be put forward by the President of the Republic within the period of ten days when the Comptroller rejects a decree with the force of law as unconstitutional. It may also be posed by any of the houses or by a fourth of its members in office in the case that the Comptroller challenges a decree with the force of law as unconstitutional. This requirement must be made effective within the period of thirty days, counting from the publication of the respective decree with the force of law.

In the case of number 4, the question may be posed upon the request of the Senate of the Cámara de Diputados, within ten days counting from the date of publication of the decree that sets the day of the plebiscitary consult.

The tribunal will establish the definitive text of the plebiscitary consult in its resolution, when doing so is appropriate.

If, at the time of issuing the sentence, there are less than thirty days remaining for the realization of a plebiscite, the tribunal will set a new date between thirty to sixty days after the judgement.

In the case of number 5, the question may be put forward by any of the parties or by the judge dealing the issue. It will correspond to either of the chambers of the tribunal to declare, without further recourse, the admissibility of the question whenever the existence of a question pending before an ordinary or special court is verified, that the application of the challenged legal precept may be decisive in the resolution of an issue, that the challenge is reasonably based and they meet the requirements established by the law. The responsibility to resolve the suspension of procedure in which the action of inapplicability due to unconstitutionality originated will correspond to the same chamber.

In the case of number 6, once a declaration of inapplicability due to unconstitutionality of a legal precept is resolved, according to number 5 of this article, there will be a public action to request a declaration of unconstitutionality from the Constitutional Tribunal, without prejudice to the ability of the tribunal to declare it ex officio. Establishing the requisites of admissibility, in the case that the public action is exercised, as well as regulating the procedure that must be followed to act ex officio will correspond to the respective organic constitutional law.

In the case of number 7, the question may be posed by either of the chambers or by a fourth of their members in office, within the thirty days following the publication of the challenged text or within the seventy days following the date on which the President of the Republic must give effect to the promulgation of the law. If the tribunal welcomes the claim, its finding will promulgate the law that the President was supposed to have promulgated or it will rectify the incorrect promulgation.

In the case of number 10, the tribunal may only hear the case upon the request of the Senate.

There will be public actions to make requests of the tribunal with respect to the attributes conferred by numbers 9 and 12 of this article.

However, if in the case of number 9 the affected person is the President of the Republic or the President elect, the request must be made by the Cámara de Diputados or by the fourth of its members in office.

In the case of number 11, the request must be met by any of the authorities involved in the conflict.

In the case of number 13, the tribunal may only hear the case upon the request of the President of the Republic or upon the request of no less than ten parliamentarians serving in office.

In the case of number 15, the tribunal may only hear the case upon the request of any of the legislative houses, issued within the thirty days following the publication or notification of the challenged text. In the case of defects that do not refer to decrees that exceed the autonomous regulatory power of the President of the Republic, a fourth of the members in office may also meet said requirement.

The Constitutional Tribunal may fully assess the facts when it exercises the attributes indicated in numbers 9, 10, and 12, as well as when it is aware of the grounds for cessation in the role of parliamentarian.

In the cases of numbers 9, 12, and in the case of number 2 when it is requested by a parte, it will correspond to a chamber of the tribunal to issue a pronouncement without further recourse, of its admissibility.

## Article 95

Against the resolutions of the Constitutional Tribunal there will be no recourse, without prejudice to the tribunal's ability, according to the law, to rectify the errors it has made.

In order to execute its resolutions, the Constitutional Tribunal may issue orders or request actions to the public departments concerned. With this purpose the fourth clause of article 77 of the Constitutions is applicable.

The provisions that the tribunal declares unconstitutional may not be converted into law in the project or decree with the force of law in which it is contained.

In the case of number 6 of article 94, having declared the unconstitutionality of a legal precept, the legislative organs must, within the period of six months, initiate a process to formulate the norm that will regulate the matter previously subject to the abrogated precept.

In the case of number 15 of article 94, a nullified supreme decree will remain without effect, with the single merit of the sentence of the tribunal that receives the complaint. Nevertheless, the precept declared unconstitutional according to the provisions of numbers 2, 3, or 6 of article 94, will be understood to have been abrogated from the publication in the Diario Oficial of the sentence that receive the complaint, which will not produce a retroactive effect.

Sentences that declare all of or a part of a law, a decree with the force of law, a supreme decree or a general norm unconstitutional, will be published in the Diario Oficial within the three days following the declaration.

• Constitutionality of legislation

## Chapter IX: The Electoral Service and Electoral Justice

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• Electoral commission

### Article 96

An organization of the state, autonomous, with juridical personhood and its own patrimony, named the Electoral Service will exercise the administration, oversight, and management of the electoral processes and plebiscites; compliance with the norms of transparency, limits and controls on electoral spending; the norms regarding political parties, and the other functions that are indicated by an organic constitutional law.

The upper management of the Electoral Service will correspond to a directive council, which will exercise the attributes granted by the Constitution and the laws in an exclusive form. Said council will be composed of five councilors designated by the President of the Republic, with the prior approval of the Senate, which requires a two thirds vote of the members in office. The councilors will remain in office for ten years, may not be designated for a new term and will be partially renewed every two years. Prior to the vote of the Senate, the proposed candidates must formulate a presentation of their nomination to the respective position in a public special session before the Senate.

The councilors may only be removed by the Supreme Court, upon the request of the President of the Republic, or upon the request of a third of the members in office in the Cámara de Diputados, due to a serious violation of the Constitution or of the laws, incapacity, bad behavior or negligence in the exercise of his or her duties. The court will hear the issue in a plenum specially convened for the purpose and in order to initiate the removal it must obtain a majority vote of the members in office in agreement. The organization and attributes of the Electoral Service will be established by an organic constitutional law. Its form of decentralization, the staff, the remunerations and staff regulations will be established by a law.

### Article 97

A special tribunal of the State, which will be named the Tribunal Calificador de Elecciones, will be responsible for the general oversight and certification of the elections for President of the Republic, Representatives and Senators; it will resolve the complaints that take place and it will proclaim the results of elections. Said tribunal will also oversee the plebiscites and will have the other attributes determined by the law.

It will be composed of five members designated in the following form:

- a. Four ministers of the Supreme Court, designated by that court through a lottery in the form and at the opportunity determined by the respective organic constitutional law, and
- b. A citizen that has held the role of President or Vice President of the Cámara de Diputados or of the Senate for a period of no less than 365 days, designated by the Supreme Court in the form indicated in the proceeding letter a), from the group of all those that meet the indicated requirement.

The designations referred to in letter b) may not apply to persons that are parliamentarians, candidates in popular elections, Ministers of the State, nor to leaders of political parties.

The members of this tribunal will hold office for four years and the provisions of articles 59 and 60 of this constitutions will be applicable.

The Tribunal Calificador will proceed as a jury in assessing the facts and will issue sentences according to the law.

An organic constitutional law will regulate the organization and operation of the Tribunal Calificador de Elecciones.

## Article 98

There will be regional electoral courts charged with the general oversight and certification of the elections that the law entrusts to them, as well as with resolving complaints that take place and proclaiming the elected candidates. Their resolutions will be appealable to the Tribunal Calificador de Elecciones in the form determined by the law. Additionally, they will certify the union elections as well as those that take place in intermediary groups indicated by the law.

These courts will be composed of a minister of the respective Court of Appeals, elected by this court, and two members designated by the Tribunal Calificador de Elecciones from those persons that have practiced the profession of lawyering or performed the functions of a minister or internal lawyers of the Court of Appeals for a period of no less than three years.

The members of these courts will hold office for four years and will have the inabilities and incompatibilities determined by the law.

These courts will proceed as a jury in fully assessing the facts and will issue sentences according to the law.

The law will determine the other attributed of these courts and will regulate their organization and operation.

## Article 99

Annually, the funds necessary for the organization and operation of these courts, will be included in the Budgetary Law of the Nation, their staff, remunerations, and staff regulations will be established by law.

# Chapter X: The Comptroller General of the Republic

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## Article 100

An autonomous organization of the State with the name of the Comptroller General of the Republic will control the legality of the acts of the administration, oversee the entry and the inversion of the funds of the Treasury, the municipalities, and the other organizations and services determined by the laws; it will examine and judge the accounts of the persons that are responsible for assets of these organizations; it will conduct the general accounting of the nation, and it will perform the other functions assigned to it by the respective organic constitutional law.

The Comptroller, with the motive of controlling legality or the authorities, may not evaluate the aspects of merit or of convenience of the political or administrative decisions.

The Comptroller General of the Republic must have at least ten years of certification as a lawyer, have reached the age of forty and must possess the other qualities necessary to be a citizen with the right to vote. The Comptroller General will be designated by the President of the Republic with the agreement of the Senate, which requires a three fifths vote of the Senate's members in office, and will serve for a period of eight years and may not be designated for the following period. Upon reaching the age of 75, he or she will cease operating in the role. Prior to the vote of the Senate, the proposed candidate must formulate a presentation of his or her nomination for the position in a public special session before the Senate.

## Article 101

The Comptroller General, in order to ensure compliance with the law, will take note of the decrees and resolutions that, in accordance with the law, must be processed by the Comptroller or it will attest to the illegality a law suffers from; however, it must proceed with them when, despite his or her representation, the President of the Republic insists on, with the signature of all of his or her ministers, a case in which a copy of the relevant decrees must be sent to the Cámara de Diputados. In no case will decrees of expenses that exceed the limit signaled in the Constitution be allowed to proceed and the Comptroller will remit a full copy of the records to the same house.

Additionally, it will correspond to the Comptroller General of the Republic to take note of the decrees with the force of law, requiring the Comptroller to object to them when they exceed or contravene the law of delegation or when they are contrary to the constitution.

If the objection took place with respect to a decree with the force of law, the promulgation decree of a law or of a constitutional reform for departing from the approved text, or a decree or resolution for being contrary to the Constitution, the President of the Republic will not have the ability to insist, and in the case of noncompliance with the representation of the Comptroller, the President must remit the background information to the Constitutional Tribunal within the period of ten days, with the goal of having the Constitutional Tribunal resolve the controversy.

In other cases, the organization, operation, and the attributes of the Comptroller General of the Republic will be subject to an organic constitutional law.

## Article 102

The Treasuries of the State may not issue any payment except in the service of a decree or resolution issued by a competent authority, in which the law or the part of the budget that authorizes the expense is expressed.

# Chapter XI: The Armed Forces, of Order and Public Security

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## Article 103

The Armed Forces under the supervision of the Ministry of National Defense are constituted solely and exclusively by the Army, the Navy, and the Air Force. They exist for the defense of the homeland and are essential to national security.

The Forces of Order and Public Security are composed solely by the Carabineiros and Investigations. They constitute the public force and exist to give efficiency to the

law, guarantee public order and internal public security, in the form determined by their respective organic laws. They depend on the Ministry of the Interior and Public Security, with the exception of the provisions of articles 77 and 84 of this Constitution, which establish their dependence to receive direct orders from the Tribunals of Justice of the Judiciary and the Public Ministry, respectively.

The Armed Forces and Carabineiros, as armed groups, are essentially obedient and non-deliberative. The forces under the supervision of the Ministries charged with National Defense and Public Security are also hierarchical and disciplined professionals.

## Article 104

The incorporation into the staff and personnel of the Armed Forces and the Carabineiros may only take place through their own schools, with the exception of the professional ranks and the civil employees determined by the law.

## Article 105

No person, group, or organization may possess or have arms or other similar elements indicated by a law, without authorization granted in accordance with that law.

A law will determine the Ministry or the organizations under its supervision that will exercise the supervision and control of the armed forces. Additionally, it will establish the public organizations charged with overseeing compliance with the norms related to said control.

## Article 106

The Commanders in Chief of the Army, the Navy, and the Air Force, as well as the General Director of the Carabineiros will be designated by the President of the Republic from among the five most senior general officers that meet the requirements for the role as specified by the respective institutional statutes; terms will last for four years, they may not be renewed for a new term, and they will enjoy tenure in their role.

The President of the Republic, through a substantiated decree and with prior notice to the Cámara de Diputados and Senate, may call for the retirement of the Commanders in Chief of the Army, the Navy, and the Air Force as well as the General Director of the Carabineiros prior to completing his or her term.

## Article 107

The nominations, promotions and retirements of the officials of the Armed Forces and Carabineiros, will take effect through a supreme decree, in accordance with the corresponding organic constitutional law, which will determine the respective basic norms as well as the basic norms with reference to the professional career, incorporation to its rank, security, seniority, command, command succession, and the budget of the Armed Forces and the Carabineiros.

The entry, the nominations, ascensions and retirements in Investigations will take effect in accordance with their organic constitutional law.



## Chapter XII: The National Security Council

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• Advisory bodies to the head of state

### Article 108

There will be a National Security Council charged with advising the President of the Republic on matters related to National Security and exercising the other functions that this constitution assigns to it. It will be presided over by the President of the Republic and its membership will include the Presidents of the Senate, the Cámara de Diputados and the Supreme Court, as well as the Ministers of the Interior and Public Security, External Relations and National Defense, the Commanders in Chief of the Armed Forces, the General Director of the Carabineiros, the Director General of the Police of Investigations, and the Comptroller General of the Republic.

Other Ministers of the State may be present in the National Security Council's sessions in the cases in which the President of the Republic determines

### Article 109

The National Security Council will meet when it is convened by the President of the Republic and it will require an absolute majority of its members in order to establish quorum.

The Council will not adopt agreements except to issue the regulations referred to within the final clause of the present article. In its sessions, any of the members may express their opinion about the issues under consideration, without committing their respective departments, organizations or institutions.

The actions of the Council will be public, unless the President of the Republic determines the application of the exceptions to their publicity established in article 8 of this document. A regulation issued by the council will establish the other provisions concerning its organization, operation, and the publicity of its meetings.

## Chapter XIII: The Central Bank

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• Central bank

### Article 110

An autonomous organization of the State with its own patrimony, and of a technical character, named the Central Bank will exist; its composition, organization, functions, and attributes will be determined by an organic constitutional law

The candidates proposed to compose the Council of the Central Bank, prior to the respective vote, must formulate a presentation of their nomination to the respective position in a public special session before the Senate.

### Article 111

The Central Bank may only engage in operations with financial institutions, be they public or private. In no way may the Central Bank grant them its guarantee, nor acquire documents emitted by the State, its organizations or businesses.

No public expense or loan may be financed with direct or indirect credits from the Central Bank.

In the case of an external war or the danger of external war, as certified by the National Security Council, the Central Bank may obtain, grant, or finance credits to the State and public or private entities.

The Central Bank may not adopt any agreement that signifies in a direct or indirect manner the establishment of norms, different requirements, or discriminatory requirements in relation to persons, institutions, or entities that realize operations within the same environment.

## Chapter XIV: Internal Governance and Administration of the State

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### Article 112

The territory of the Republic is divided into regions and these are divided into provinces for the purpose of internal governance and administration of the State. The provinces will be divided into communes for the purpose of local administration.

The creation, suppression and denomination of regions, provinces and communes; the modification of their boundaries, as well as the location of the capitals of the regions and provinces will be established through an organic constitutional law.

### Regional Governance and Administration

#### Article 113

The upper administration of each region will reside within a regional government, that will be charged with the social, cultural, and economic development of the region.

The regional government will be composed by a regional governor and the regional council. The regional government will enjoy juridical personhood under public law and will have its own patrimony for the purpose of exercising its duties.

The regional governor will be the executive of the regional government; the responsibility to preside over the council and exercise the functions and attributes determined by an organic constitutional law will correspond to the regional governor, in coordination with the other organs and public services created to achieve the administrative functions. Additionally, the coordination, supervision and oversight of public services that depend on or are related to the regional government correspond to the regional governor.

The regional government will be elected through a direct vote with universal suffrage. The candidate for regional governor that obtains the majority of the votes validly submitted when said majority is equivalent to at least forty percent of the validly submitted votes will be elected, according to the provisions of the respective organic constitutional law. The regional governor's term in office will last for four years, and the regional governor may only be reelected consecutively for the following term.

If more than two candidates for regional governor present themselves and none of them obtains at least forty percent of the votes validly cast, a second vote will take place, which will be circumscribed to the candidates that received the two relatively highest vote counts and the candidate that receives the highest vote in the second election will be elected regional governor. This new vote will be verified in the form

• Subsidiary unit government

• Claim of universal suffrage

determined by the law.

For the purpose of the provisions of the two prior clauses, the votes left blank or null will be considered as votes not cast.

The respective organic constitutional law will establish the causes of inability, incompatibility, subrogation, cessation, and vacancy of the role of regional governor, without prejudice to the provisions of articles 126 and 127.

## Article 114

The regional council will be an organ of a normative, decision making, and management character within the domain of competency of the regional government; the regional council will be charged with making the participation of the region's citizenship effective and exercising the attributes that the respective organic constitutional law assigns it.

The regional council will be composed of councilors elected through a direct vote with universal suffrage, in accordance with the respective organic constitutional law. Councilors will hold office for four years and may be reelected. The same law that will establish the organization of the regional council, will determine the number of councilors that it will be composed of and their form of replacement, always ensuring that the population and the territory of the region are equally represented.

A regional counselor that loses a requisite of eligibility or incurs an inability to hold office, an incompatibility, and incapacity, or another cause of cessation established by an organic constitutional law will cease his or her term.

The provisions of the prior clauses with respect to the regional council and the regional counselors will be applicable, as appropriate, to the special territories referred to in article 129.

The regional council, through an absolute majority of its members in office, will elect a president from among its members. The president of the council will hold office for four years and will cease to hold the role in the case that any of the causes indicated in the third clause are incurred, due to a removal agreed to by two thirds of the regional councilors in office or due to a resignation approved by the majority of the regional councilors.

The organic constitutional law will determine the functions and attributes of the president of the regional council.

Approving the budget of the respective region under consideration will correspond to the regional council, which will consider the resources assigned for this in the Budgetary Law, its own resources, and those that come from the programming agreements.

The Senators and Representatives that represent the senatorial and electoral districts of the region may, when they deem it appropriate, attend the sessions of the regional council and take part in its debates, without the right to vote.

## Article 115

The respective organic constitutional law will determine the form and the mode in which the President of the Republic will transfer to one or more regional governments, in a temporary or definitive character, one or more competencies of the ministers and public services created to achieve the administrative function, in matters of territorial order, the fostering of the productive activities as well as social and cultural development.

• Claim of universal suffrage

## Article 116

• Reference to fraternity/solidarity

The quest for harmonic and equitable territorial development will be observed as a basic principle in the internal governance and administration of the State referred to within the present chapter. The laws that are issued for this purpose must ensure the compliance with and application of said principle, incorporating at the same time criteria of solidarity between the regions, such as to their interior in matters regarding the distribution of public resources.

Without prejudice to the resources assigned to regional governments through the Budgetary Law of the Nation in order for them to function and without prejudice to those that come from the sources mentioned in number 27 of article 19, said law will include a proportion of the total of the expenses of public investment that it determines, with the denomination of the national fund for regional development.

The Budgetary Law of the Nation will also include expenses corresponding to regionally assigned sectoral inversions whose distribution amongst the regions will follow the criteria of equity and efficiency, taking into consideration the corresponding national programs of investment. The assignment of such expenses to the interior of each region will correspond to the regional government.

At the initiative of regional governments or one or more ministries, annual or multi-annual public investment programming agreements may be concluded between regional governments, between these and one or more ministries or between regional governments and municipalities, whose compliance will be mandatory. The respective constitutional organic law will establish the general norms that will regulate the subscription, execution and enforceability of said agreements.

The law may authorize regional governments and public companies to associate themselves with natural or juridical persons for the purpose of promoting nonprofit activities or initiatives that contribute to regional development. The entities constituted for this purpose will be regulated by the communal norms applicable to the particularities.

The provisions of the prior clause will be understood to be without prejudice to the provisions of number 28 of article 19.

## Article 117

In each region there will be a regional presidential delegation, headed by a regional presidential delegate that will exercise the functions and attributes of the President of the Republic in the region, according to the law. The regional presidential delegate will be the natural and immediate representative, within the territory of his or her jurisdiction, of the President of the Republic and will be nominated and remove at will by the President. The regional presidential delegate will exercise his or her functions according to the laws and the orders or instructions of the President of the Republic.

The coordination, oversight, and management of public services created through law to achieve the administrative functions that operate within the region and that depend on or are related to the President of the Republic through a Ministry will correspond to the regional presidential delegate.

## Provincial Governance and Administration

### Article 118

In each province there will be a provincial presidential delegation, which will be an organization that is territorially disconnected from the regional presidential delegation and will be headed by a provincial presidential delegate nominated and removed at will by the President of the Republic. In the province that is the seat of the regional capital, the regional presidential delegate will exercise the functions of the provincial presidential delegate.

The provincial presidential delegate will exercise, according to the instructions of the regional presidential delegate, oversight over the extant public services within the province. The law will determine the attributes that the regional presidential delegate may delegate to as well as the other duties that will correspond to the provincial presidential delegate.

### Article 119

The provincial presidential delegates, in the cases and forms determined by the law, may designate agents to exercise their responsibilities in one or more localities.

## Municipal Administration

### Article 120

The local administration of each commune or group of communes that the law determines to reside within a municipality, will be governed by a mayor, who is the highest authority, and by a council.

The respective organic constitutional law will establish the mode and forms that participation of the local community in municipalities ought to assume.

Mayors in the cases and forms determined by an organic constitutional law may designate agents to exercise their responsibilities in one or more localities.

The municipalities are autonomous public corporations, with juridical personhood and their own patrimony, whose purpose is to satisfy the needs of the local community and ensure their participation in the economic, social, and cultural progress of the commune.

An organic constitutional law will determine the functions and attributes of the municipalities. Said law will also indicate the areas of the municipalities' competence in which the mayor, with the agreement of the council or upon the request of two thirds of the councilors in office, or upon the request of the proportion of citizens that the law establishes, will submit to a non-binding consult or to a plebiscite, as well as the opportunities, the form of the convocation and the effects.

The municipalities may associate with each other according to the respective organic constitutional law, and these associations may enjoy public juridical personhood. Additionally, they may constitute or form nonprofit private corporations or foundations whose purpose is the promotion and diffusion of the arts, culture, sport, or the fostering of community productivity and community development projects. Municipal participation in them will be guided by the cited organic constitutional law.

The municipalities may establish territories denominated as neighborhood units for the purpose of sustainable development and the adequate channeling of citizens' participation within the communities or within groups of communities in accordance

with the respective organic constitutional law.

Public services must be coordinated with the municipality when they take place within the respective communal territory, in accordance with the law.

The law will determine the form and the mode in which the ministries, public services and regional governments may transfer competencies to the municipalities, as well as the provisional or definitive character of the transfer.

## Article 121

In each municipality there will be a council composed of councilors elected through universal suffrage in accordance with the organic constitutional law of the municipalities. Councilors will hold office for four years and may be reelected. The same law will determine the number of councilors and the form in which the mayor will be selected.

The council will be charged with ensuring the effective participation of the local community, exercising normative, decision making, and management functions as well as other attributes assigned to them in the form determined by the respective organic constitutional law.

The organic law of municipalities will determine the norms regarding the organization and the functioning of the council and the matters on which the mayor will be obligatorily required to consult the council and those matters on the agreement of the council will be obligatory. In all cases, said agreement will be necessary for the approval of the community development plan, the municipal budget, and the respective projects of investment.

## Article 122

The respective organic constitutional law will regulate the transitory administration of the communes that they create, the procedure for installing the new municipalities, the transfer of staff and services as well as the necessary safeguards to protect the use and disposition of the goods that are encountered within the territories of the new communes.

Additionally, the organic constitutional law of municipalities will establish the procedures that must be observed in the case of the removal or the fusion of one or more communes.

## Article 123

The municipalities, in order to achieve their functions may create or remove employments and set remunerations, as well as establish the organizations or units that the respective organic constitutional law permits.

These abilities will be exercised within the limits and requirements that, upon the exclusive initiative of the President of the Republic, are determined by the organic constitutional law of the municipalities.

## Article 124

The municipalities will enjoy autonomy in the administration of their finances. The Budgetary Law of the Nation may grant them resources to assist with their expenses, without prejudice to the payments that are directly conferred by the law or granted to them by the respective regional governments. An organic constitutional law will include a mechanism for the solidaristic redistribution of tax revenues amongst the municipalities of the country denominated as the common municipal fund. The

• Claim of universal suffrage

norms of distribution of this fund will be determined by the law.

## General Provisions

### Article 125

The law will establish forms of coordination for the administration of all or some of the municipalities with respect to the problems they share in common as well as coordination amongst the municipalities and the other public services.

Notwithstanding the provisions of the prior clause, the respective organic constitutional law will regulate the administration of the metropolitan areas and will establish the conditions and formalities that permit said quality to be bestowed upon specific territories.

### Article 126

To be elected as a regional governor, a regional councilor, mayor, or a provincial councilor and to be designated as a regional presidential delegate or a provincial presidential delegate, a person must be a citizen with the right to vote, meet the other age requirements indicated by the law and reside within the region for at least the last two years prior to being designated or elected.

The positions of regional governor, regional councilor, mayor, provincial councilor, regional presidential delegate and provincial presidential delegate will be incompatible with each other.

The position of regional governor is incompatible with any other employment or commission payed with funds from the treasury, the municipalities, the autonomous fiscal entities, semi-fiscal, or the businesses of the state or those in which the treasury has capital ties as well as with any other function or commission of the same nature. Teaching positions as well as functions or commissions of an equal character in higher, secondary and special education within the limits established by the law are exempt.

Additionally, the position of regional governor is incompatible with the functions of directors or councilors, even when they are ad honorem, within the autonomous fiscal entities, semi-fiscal, or within the state businesses, or in those that the State participates within through capital.

Upon its proclamation by the Tribunal Calificador de Elecciones, an elected regional governor will cease operating in any other position, employment or commission.

No regional governor, from the moment of his or her proclamation by the Tribunal Calificador de Elecciones, may be named for an employment, function or commission of those referred to within the prior clauses. Without prejudice of the former, this provision will not apply in the case of external warfare; however, only the positions conferred in a state of war are compatible with the functions of regional governor.

No regional governor, regional presidential delegate, or provincial presidential delegate, from the day of their election or designation, depending on the case, may be accused or deprived of their liberty if the appellate court of the respective jurisdiction does not grant prior authorization declaring there to have been cause, except in the case of a flagrant crime. This resolution may be appealed before the Supreme Court.

In the case that a regional governor, a regional presidential delegate, or a provincial presidential delegate is arrested for a flagrant crime, he or she will be placed immediately at the disposition of the respective appellate court with the corresponding summary information. The tribunal will proceed according to the

provisions of the prior clause.

From the moment that cause is declared through a firm resolution, the regional governor, regional presidential delegate, or the provincial presidential delegate will be immediately suspended from their position and subject to the competent judge.

## Article 127

The respective organic constitutional laws will establish the causes of cessation in the positions of regional governor, mayor, regional councilor, and provincial councilor.

The mentioned authorities, having seriously infringed the norms of transparency or limits and controls on electoral spending, from the date on which the Tribunal Calificador de Elecciones declares it to have done so through a firm resolution, and upon request of the Directive Council of the Electoral Service, will cease their roles

Additionally, whoever loses the role of regional governor, mayor, regional councilor or provincial councilor according to the provisions of the prior clause, may not hold a public office or employment for the period of three years, nor may he or she be a candidate to popularly elected positions in the following two elections immediately following his or her cessation.

## Article 128

The law will determine the form in which questions of competence that may arise amongst the national, regional, provincial, and communal authorities will be resolved.

Additionally, it will establish the mode of resolving the discrepancies produced by the regional governor and the regional council as well as those between the mayor and the council.

## Special Provisions

### Article 129

The Easter Islands and the Juan Fernandez Archipelago are special territories. The government and administration of these territories will govern according to the statutes established by the respective organic constitutional laws.

The rights to reside, remain and travel to or from any place within the Republic, guaranteed in number 10 of article 19, will be exercised in said territories in the form determined by the special laws that regulate their exercise.

## Chapter XV: Reform of the Constitution

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### Article 130

Proposals of constitutional reform may be initiated through a message of the President of the Republic or through a motion of any of the members of the National Congress, with the limits indicated in the first clause of article 66.

The reform proposal will require a three fourths vote of the Representatives and Senators in office in each house of the National Congress.

• Constitution amendment procedure



In cases not foreseen by this chapter, the norms regarding the formation of laws will be applicable to the processing of proposals of constitutional reform, always requiring the quorums indicated in the prior clause.

## Article 131

A proposal approved by both houses will pass on to the President of the Republic.

If the President of the Republic completely rejects a reform proposal approved by both houses and they insist in their totality with the support of three fourths of the members in office within each house, the President of the Republic must promulgate said proposal, at least through consultation of the citizenry in the form of a plebiscite.

If the President partially observes a reform proposal approved by both houses, the observations will be understood to have been approved with the vote of three fifths of the members in office within each house, in accordance with the prior article, and it will return to the President for promulgation.

In the case that the houses do not approve all or some of the observations of the President, there will be no constitutional reform with regard to the points of discrepancy, except in the case that the President consults the citizenry through a plebiscite with respect to the questions in disagreement.

The organic constitutional law related to the Congress will also regulate vetos to constitutional reform proposals and their processing within the Congress.

## Article 132

Convoking a plebiscite must take place within thirty days following Congress's insistence on the project approved by them or Congress's rejection of the observations of the President of the Republic and will be ordered through a supreme decree that will set the date of the plebiscite, which will be held one hundred and twenty days after the publication of said decree if this day is a Sunday. If it is not, the plebiscite will be held on the following Sunday. If the plebiscite is not held by the President before this date, the proposal that was approved by the Congress will be promulgated.

The decree to convoke a plebiscite will contain the proposal approved by both houses and completely vetted by the President of the Republic, or the questions of reform in which the Congress has insisted. In the latter case, each of the questions in disagreement must be voted on separately in the plebiscite.

The Tribunal Calificador will communicate to the President of the Republic the results of the plebiscite and it will specify the text of the proposal approved by the citizens, which must be promulgated as a constitutional reform within five days following said communication.

Once the proposal is promulgated and from the date it enters into force, its provisions will form part of the Constitution and will be incorporated into it.

## Article 133

Without prejudice to the provisions of article 130 and those that follow it, the National Congress, with a two thirds vote of the Representatives and Senators in office in agreement may convoke a Constitutional Convention to elaborate a New Constitution.

An organic constitutional law will regulate the convocation for the convention on behalf of the Congress, the composition of the convention, the system of nominations and the election of its members, its organization, functions and

attributes, as well as the mechanisms of public participation that, for this purpose, the Constitutional Convention will establish in the process of creating the New Constitution.

Once the New Constitution is approved in the Constitutional Convention, it will be sent to the President of the Republic for the President to consult the citizens through a plebiscite in which the absolute majority of the validly cast votes will determine whether it is approved or rejected. For this purpose, the vote will be obligatory. Once the proposal is sent, the Constitutional Convention will disband.

The convocation for a plebiscite must take place within thirty days following the date on which the proposal for a New Constitution sent by the Constitutional Convention is received and it will be ordered through a supreme decree that will set the date of the plebiscite, which must be held within ninety days after the publication of said decree if this day is a Sunday. If it is not a Sunday, the plebiscite will be held on the following Sunday. The decree to convoke the plebiscite will contain the options "accept" or "reject."

The Tribunal Calificador de Elecciones will communicate to the President of the Republic the result of the plebiscite, and the President will specify the option decided by the citizens. If this is approved, the President of the Republic will promulgate the text of the New Constitution within ten days after the having communicated the result and the publication will take place within five working days after the date on which the promulgation decree is completely processed.

## Transitory Provisions

### First

The provisions of the present constitutional reform will enter into force, with the prior approval of a plebiscite convened by the president of the Republic for this purpose and according to the following rules.

Once the constitutional reform is approved, it will be sent to the President of the Republic so that the President may consult the citizens through a plebiscite in which an absolute majority of the validly cast votes will determine whether the plebiscite approves or rejects it. For this purpose, the vote will be obligatory.

The convocation to a plebiscite must take effect within the thirty days following the date on which the proposal for constitutional reform sent by the National Congress is received and will take place through a supreme decree that will set the date of the plebiscite, which will take place ninety days after the publication of said decree if this day is a Sunday. If it is not a Sunday, the plebiscite will be held on the next Sunday. The decree to convoke a plebiscite will include the options to "approve" or "reject."

The Tribunal Calificador de Elecciones will communicate the results of the plebiscite to the President of the Republic and will specify the option chosen by the citizens. If this is "approved," the President of the Republic will promulgate the text of the constitutional reform within ten days after communicating the results and the publication will take place within five working days following the date on which the promulgation decree is completely processed.

### Second

The actual laws in force comply with the requirements that this Constitution establishes and will continue applying in that which is not contrary to it, as long as the corresponding legal bodies do not issue amendments or repeals.

### **Third**

All authorities elected through a popular vote that are in office at the moment the present constitutional reform takes effect will remain in office for the remaining time until the next popular election.

The President of the Republic in office at the moment this constitutional reform enters into force will be subject to the provisions of the second clause of article 24 with regard to no reelection nor nomination.

For the purpose of the provisions of the first clause of article 51, the first period as a parliamentarian will be that which is initiated with the first elections realized after the present constitutional reform comes into force.

### **Fourth**

Without prejudice to the provisions of the prior article, all members of the organizations of the State regulated by the extant Constitution during the exercise of their function, will remain in their positions upon the entrance into force of the present constitutional reform, and these positions will be filled as they cease their functions in accordance with the constitutional norms in force.

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