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Spain's Constitution of 1837

Historical

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- Type of government envisioned
- Source of constitutional authority
- Preamble

Preamble

Isabel II, by the grace of God and the Constitution of the Spanish monarchy, Queen of Spain; and in its royal name, during her minor age, the widowed Queen Lady Maria Cristina of Bourbon, Governor of the Kingdom; of all that the present shall see and shall understand, know: That the General Parliament has decreed and sanctioned, and we conformingly accept the following:

Being it the willingness of the nation to revise, in the use of its sovereignty, the Constitution promulgated in Cadiz on March 19, 1812, the Parliament generally gathered for this purpose, decrees and sanctions the following constitution of the Spanish monarchy.

Title I. The Spanish

- Political theorists/figures
- God or other deities

Article 1

Spaniards are:

1. All persons born in the Spanish domains.
2. Children of a Spanish parent, although they were born outside of Spain.
3. Foreigners who have obtained a letter of naturalization.
4. Those who without such have gained residency in any town of the Monarchy.

The quality of Spanish is lost by acquiring naturalization in a foreign country, and by accepting employment from another government without license of the King.

- Requirements for birthright citizenship

- Requirements for naturalization

- Conditions for revoking citizenship

- Freedom of press

Article 2

All can print and publish their ideas freely without prior censorship, as determines the law. The qualification of the crimes of printing lies exclusively with jurors.

- Right of petition

Article 3

All Spanish are entitled to direct requests in writing to the Parliament and the King, as determined by the laws.

Article 4

The same codes shall govern throughout the monarchy, and in them there shall only be established one set of laws for all Spaniards in common, civil and criminal trials.

- Civil service recruitment

Article 5

All Spaniards are eligible for jobs and public office, according to their merit and ability.

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

Article 6

All Spaniards are obligated to defend the homeland with arms when called by law, and to contribute in proportion of their assets to government expenditures.

- Protection from unjustified restraint
- Right to privacy
- Regulation of evidence collection

Article 7

No Spaniards may be arrested, detained, or separated from his home, raided in his house, but in those cases and in the manner prescribed by law.

Article 8

If state security requires, in extraordinary circumstances, the temporary suspension of the provisions of the preceding article throughout the Monarchy, or any part thereof, such shall be determined by law.

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

Article 9

No Spaniards can be prosecuted or sentenced, but by the competent judge or court, under previous laws concerning the crime and in the manner prescribed.

- Protection from expropriation

Article 10

There shall no longer be imposed the penalty of confiscation of property, and no Spaniards shall be deprived of their property, but for the cause of common utility, upon appropriate compensation.

- Official religion

Article 11

The nation is obliged to maintain the religion and the ministries of the Catholic Religion that is professed by the Spanish.

Title II. The Parliament

Article 12

The power to make laws resides in the parliament with the King.

- Structure of legislative chamber(s)

Article 13

The parliament is composed of two co-legislative bodies, equal in power: the Senate and the Congress of Deputies.

Title III. The Senate

Article 14

The number of senators will be equal to three-fifths of deputies.

- Size of second chamber

Article 15

Senators are appointed by the King on the proposal, in triple list form, of the voters who in each province appoint deputies to the parliament.

- Second chamber selection

- Second chamber selection

Article 16

It is the duty of each province to propose a number of senators in proportion to its population, but no province shall cease to have at least one Senator.

- Eligibility for second chamber
- Minimum age for second chamber

Article 17

In order to be a Senator it is required to be a Spaniard more than forty years old and to have a means of subsistence and the other requirements as determined by the electoral law.

Article 18

All Spaniards who meet these qualities can be nominated by senators for any province of the Monarchy.

Article 19

Each time there is a general election of deputies by reaching the end of their term or by being dissolved by Congress, there shall be a renewal in order of seniority of one-third of the Senators, who may be reelected.

- Eligibility for second chamber
- Minimum age for second chamber
- Second chamber selection

Article 20

The sons of King and the immediate heir of the Crown shall be senators at the age of twenty-five.

Title IV. The Congress of Deputies

- First chamber selection

Article 21

Each province shall appoint at least one deputy for every fifty thousand of its people.

- First chamber selection

Article 22

Deputies are elected by the direct method, and may be reelected indefinitely.

- Minimum age for first chamber
- Eligibility for first chamber

Article 23

To be deputy one must be Spanish, of a secular background, twenty-five years old, and have any other requirements that are required by the electoral law.

Article 24

All Spanish who have these qualities, may be appointed deputy by any province.

- Term length for first chamber

Article 25

The deputies shall be elected for three years.

Title V. The Conduct and Powers of the Parliament

- Dismissal of the legislature

Article 26

The Parliament shall meet annually. It is for the King to convene, suspend and close its sessions, and dissolve the Congress of Deputies, but there is an obligation, in the latter case, to convene another parliament, and meet within three months.

Article 27

If the King fails to convene parliament any year before the date of December 1, it shall gather precisely in this day and in the event that the same year concludes the term of the deputies, the elections shall begin the first Sunday in October to make new appointments.

- Extraordinary legislative sessions

Article 28

The parliament will come together extraordinarily in case of a vacancy in the Crown, or if the King impedes, in whatever way, the government.

Article 29

Each of the co-legislative bodies shall form the respective regulations for its internal governance, and examine the legality of the elections and the qualities of the individuals who compose it.

- Leader of first chamber

Article 30

The Congress of Deputies shall appoint its Chairman, Vice-Presidents and Secretaries.

- Leader of second chamber

Article 31

The King shall appoint, for each legislature, from among the same senators, the President and Vice-Presidents of the Senate, and this shall choose his secretaries.

Article 32

The King opens and closes the parliament, in person or through his ministers.

Article 33

One of the co-legislative bodies may not be convened unless the other is so convened also, except in cases where the ministers are on trial in the Senate.

Article 34

The co-legislative bodies may neither deliberate together nor in the presence of King.

- Public or private sessions

Article 35

The sessions of the Senate and Congress shall be held in public and only in cases requiring discretion may they enter into secret session.

- Initiation of general legislation

Article 36

The King and each of the co-legislative bodies have the initiative of laws.

- Tax bills
- Finance bills

Article 37

Laws on contributions and public credit shall be presented first to the Congress of Deputies, and if in the Senate they undergo any alteration that is not later accepted by the Congress of Deputies, they shall pass for Royal sanction of that upon which the deputies definitively agree.

- Quorum for legislative sessions

Article 38

The decisions of each of the co-legislative bodies are taken by absolute plurality of votes, but to vote on laws shall require the presence of one more than half of the total number of the individuals who compose the body.

Article 39

If one of the co-legislative bodies rejects any bill, or the King refuses to sanction it, there can be no return to propose a bill of the same objective in that legislature.

Article 40

In addition to the legislative powers exercised by the Parliament with the King, they have the following powers:

- Oaths to abide by constitution

1. To receive from the King, the immediate successor of the Crown, and the Regency or Regent of the Kingdom, the oath to guard the Constitution and laws.
2. To resolve any doubt of action or right, that occurs in the order of succession to the Crown.
3. To choose the Regent or Regency of the Kingdom and to appoint a guardian to a child King, when called for by the Constitution.
4. To redeem the responsibility of ministers, who are accused by Congress and tried by the Senate.

- Cabinet removal

- Immunity of legislators

Article 41

Senators and deputies are unassailable for their opinions and votes in carrying out their duties.

- Immunity of legislators
- Removal of individual legislators

Article 42

Senators and deputies may not be prosecuted or arrested during their sessions without permission from the respective co-legislative body, not being found in flagrante; but in the case of in flagrante crime, and in the case of being prosecuted or arrested when the parliament is not in session, there must be account given as soon as possible to the respective co-legislative body for their knowledge and resolution.

Article 43

The deputies and senators who accept from the Government or the Royal House: a pension, employment other than that which is in scale with their career, a commission with a salary, honors or awards, they are subject to reelection.

Title VI. The King

Article 44

The person of the king is sacred and unassailable, and not to be held liable. Ministers are liable.

Article 45

The power to enforce the laws lies with the King, and his authority extends to all that leads to the preservation of public order in the interior and state security in the exterior, according to the Constitution and laws.

Article 46

The King shall sanction and enact laws.

Article 47

In addition to the prerogatives the Constitution gives that the King, it is his duty:

1. To issue the decrees, regulations and instructions that are conducive to law enforcement.
2. To ensure that throughout the Kingdom justice is administered promptly and fully.
3. To pardon criminals under the law.
4. To declaring war and make and ratify peace, later giving documented account to the parliament.
5. To call for armed forces, distributing them as most advisable.
6. To direct diplomatic and commercial relations with the other powers.
7. To care for the manufacture of money, which shall have his name and bust.
8. To order the investment of funds for each of the branches of government.
9. To appoint all public employees and award honors and distinctions of all kinds, according to the laws.
10. To freely appoint and dismiss ministers.

Article 48

The King needs authorization by a special law:

1. To transfer, cede or exchange any part of Spanish territory.
2. To admit foreign troops into the kingdom.

- Head of state immunity
- Name/structure of executive(s)

- Head of state powers

- Head of state decree power

- Power to pardon

- Power to declare/approve war

- Foreign affairs representative

- Cabinet selection

- Cabinet removal

- Secession of territory

- International law
- Treaty ratification

3. To ratify treaties of offensive alliance, those of special trade, and those stipulating the rendering of subsidy to any foreign power.
4. To leave the Kingdom.
5. To marry, and to allow those with whom he contracts to be his subjects and called by the Constitution to succeed to the throne.
6. To abdicate the crown to his immediate successor.

Article 49

The strength of the King and his family shall be fixed by the parliament at the beginning of each reign.

- Head of state selection
- Head of state replacement
- Eligibility for head of state
- Political theorists/figures

Title VII. The Succession of the Crown

- Name/structure of executive(s)

Article 50

The legitimate Queen of Spain is Isabel II of Bourbon.

Article 51

Succession to the Throne of Spain shall, according to the regular order of primogeniture and representation, always prefer the anterior line to the posterior; in the same line, it shall prefer the closest rank of relative to the most remote; in the same rank, it shall prefer the male to the female; and in the same sex, the person with the most age to the least.

Article 52

In the case of the line of legitimate descendants of Isabel II of Bourbon being extinguished, there shall be succession according to the order established: her sister and her paternal uncles, male just as female, and their legitimate descendants, if they were not excluded.

Article 53

If the mentioned lines of legitimate decedents of Isabel II of Bourbon are extinguished, the parliament shall make new appeals, as most appropriate to the nation.

Article 54

The parliament should exclude the succession of people who are unable to govern or have acted as such to merit the loss of the right to the Crown.

Article 55

When a female reigns, her husband shall not have any part in the government of the Kingdom.

Title VIII. Child Kings and the Regency

- Minimum age of head of state

Article 56

The King is a minor until reaching fourteen years of age.

- Head of state replacement

Article 57

When the King makes it impossible to exercise his authority or a vacancy in the Crown occurs when the immediate successor is a minor, the parliament shall appoint, to govern the kingdom, a Regency composed of one, three or five people.

Article 58

Until the parliament appoints the Regency the kingdom shall be tentatively ruled by the father or the mother of the king, and in their absence, by the counsel of ministers.

- Head of state replacement

Article 59

The Regency shall exercise all the authority of the King, whose name shall be published in acts of government.

Article 60

He who is named in the testament of the deceased King shall be named the guardian of the child king, given that he is Spanish by birth; but the father or mother shall be appointed guardian while remaining a widower. In the lack of the previous, the parliament shall name the guardian; but, the charge of Regent and the charge of guardian to the child king may not be united in the same person, but in the father or mother of the same.

- Establishment of cabinet/ministers

Title IX. The Ministers

- Powers of cabinet

Article 61

Everything the King mandates or prepares in the exercise of his authority, must be signed by the Minister it concerns, and no public servant shall give effect to that which lacks this requirement.

- Eligibility for cabinet

Article 62

The ministers may be senators or deputies and take part in discussions of both co-legislative bodies, but shall vote only in that which they belong to.

Title X. The Judiciary

Article 63

The exclusive ability to apply laws in civil and criminal trials pertains to the tribunals and courts; without their being able to perform any other functions than judgment and execution of that which is judged.

- Structure of the courts

Article 64

The laws shall define the courts and tribunals that are to be, the organization of each, their powers, how they are to be exercised, and the qualities that its individuals must have.

- Right to public trial

Article 65

Trials in criminal matters shall be public, as determined by law.

- Supreme/ordinary court judge removal

Article 66

No judge or magistrate may be dismissed from their post, temporarily or permanently, but by a final judgment; nor may they be suspended but by court order, or under orders of the King, when he, on reasonable grounds, mandates a judgment by the competent court.

Article 67

Judges are individually responsible for any breach of law committed.

Article 68

Justice is administered on behalf of the King.

Title XI. Provincial and Municipal Councils

- Subsidiary unit government

Article 69

In each province there will be a provincial council, composed by the number of individuals determined by law, appointed by the same voters as the Members of Parliament.

- Municipal government

Article 70

For the internal government of municipalities there shall be municipal councils, appointed by the residents, to whom the law grants that right.

- Subsidiary unit government
- Municipal government

Article 71

The law shall determine the organization and functions of the provincial and municipal councils.

Title XII. Taxes

- Budget bills

Article 72

Every year the Government shall present to Parliament the general budget of State expenditures for the year ahead, and the plan of contributions and ways to meet it, as well as accounts of the collection and investment flows for public review and approval.

Article 73

No contribution or judgment may be imposed or charged that is not authorized by the budgetary law or another special law.

Article 74

Like authorization is needed to dispose of state properties, to take them for use on loan, and to take loans on the credit of the Nation.

Article 75

The public debt is under the special safeguard of the Nation.

Title XIII. The Military Force

Article 76

The parliament shall fix every year, by a proposal of the King, a standing military force on sea and land.

- Head of state powers

Article 77

There shall be bodies of the national militia in each province, whose organization and service shall be arranged by a special law, and the King may, if necessary, use this force within the respective province, but may not use it elsewhere without the parliament granting permission.

Additional Articles

- Jury trials required

Article 1

Laws shall determine the time and the manner in which there shall be the establishment of trial by jury for all classes of crimes.

- Colonies

Article 2

Special laws shall govern overseas provinces.

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