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**CHILE**

**PRELIMINARY DRAFT OF THE POLITICAL  
CONSTITUTION OF THE REPUBLIC OF CHILE**

## PRELIMINARY DRAFT OF THE POLITICAL CONSTITUTION OF THE REPUBLIC OF CHILE

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## CHAPTER I FOUNDATIONS OF THE CONSTITUTIONAL ORDER

### **Article 1**

1. Human dignity is inviolable and the basis of law and justice. People are born free and equal in dignity and rights. Respecting and guaranteeing them is the first duty of the political community and its legal form of organisation.

2. Chile is organised as a social and democratic state governed by the rule of law, which recognises fundamental rights and freedoms and promotes the progressive development of social rights, subject to the principle of fiscal responsibility and through state and private institutions.

### **Article 2**

1. The State shall serve individuals and society and its purpose is to promote the common good, to which end it shall create the social conditions that enable each and every member of the national community to achieve the greatest possible spiritual and material fulfilment, with full respect for the rights and guarantees established in this Constitution.

2. The State shall promote conditions of justice and solidarity so that the freedom, rights and equality of persons may be realised, removing obstacles that prevent or hinder this.

### **Article 3**

1. The family is the fundamental nucleus of society. It is the duty of the state and society to protect and strengthen families.

2. Social groupings which freely arise among individuals shall enjoy adequate autonomy to fulfil their specific purposes which are not contrary to the Constitution. The State shall respect the effects of this recognition.

### **Article 4**

1. Chile adopts a democratic republic for its government, with separation of powers and a presidential regime. Sovereignty resides in the people and is exercised by them through periodic elections, referendums, plebiscites, participation mechanisms and also by the authorities established by this Constitution. No individual or group may claim to exercise it.

2. The law shall ensure equal access of women and men to electoral mandates and elective office and shall promote their equal participation in the different spheres of national life. The State shall guarantee the exercise of women's political participation.

### **Article 5**

1. The exercise of sovereignty is limited by the dignity of the human person and the human rights recognised in this Constitution and in the international treaties ratified by the State of Chile and which are in force.

2. The rules of domestic law shall be interpreted in a manner consistent with those treaties, favouring the widest protection of the individual.

3. The law shall determine the form and procedure in which the State shall comply with judgements rendered by international tribunals whose jurisdiction it has recognised.

### **Article 6**

1. The State of Chile is unitary and decentralised in accordance with the Constitution and the law. Its purpose is to promote national, regional and local development, ensuring coordination between the different levels.

2. The regional and communal governments shall be autonomous in the management of their affairs in the exercise of their powers in the manner determined by the Constitution and the law. The law shall promote the strengthening of the decentralisation of the country and equitable and supportive development among the regions, provinces and communes that make up the national territory, with special attention to the extreme regions.

### **Article 7**

1. The Constitution recognises indigenous peoples as part of the Chilean Nation, which is one and indivisible. The State shall respect and promote their individual and collective rights, guaranteed by this Constitution, the laws and international treaties ratified by Chile and which are in force.

2. The State recognises interculturality as a value of the country's ethnic and cultural diversity and promotes intercultural dialogue under conditions of equality and reciprocal respect. In the exercise of public functions, recognition and understanding of this ethnic and cultural diversity must be guaranteed.

**Article 8**

1. The organs of the State must submit their actions to the Constitution and the rules issued in accordance with it and guarantee the institutional order of the Republic.
2. The precepts of this Constitution are binding on the holders or members of these bodies as well as on any person, institution or group.
3. Infringement of this rule shall give rise to the responsibilities and penalties determined by law.

**Article 9**

1. The organs of the State act validly after the regular investiture of their members, within their competence and in the manner prescribed by law.
2. No magistracy, no person or group of persons may, even under the pretext of extraordinary circumstances, arrogate to themselves any authority or rights other than those expressly conferred upon them by the Constitution or by law.
3. Any act in contravention of this article is null and void and shall give rise to the responsibilities and sanctions established by law.

**Article 10**

1. It is the duty of the State to guarantee public integrity. The exercise of public functions obliges their holders to strictly comply with the principle of probity, transparency and accountability in all their actions, observing impeccable conduct and an honest and loyal performance of the function or position, with the general interest taking precedence over the private interest. Corruption is contrary to the common good and its eradication is a special objective of the organs of the State.
2. State bodies shall be governed by the principle of transparency and access to information, which ensures effective and permanent access to public information. Public are the acts and resolutions of the organs of the State, as well as the grounds and procedures they use. However, only a law with a qualified *quorum* may establish the confidentiality or secrecy of the former or the latter, when publicity would affect the due performance of the functions of such bodies, the rights of individuals, the security of the Nation or the national interest.
3. The law shall establish the prohibitions, obligations or burdens to be met by state authorities and public officials in order to prevent or resolve conflicts of interest in the exercise of their duties.

**Article 11**

1. It is the duty of the state to safeguard the security of the population, to promote the harmonious and supportive integration of its inhabitants and their participation in national life.
2. It is a fundamental obligation of the state and the political community to work for social peace. Constitutional order presupposes the use of peaceful methods of political action.

**Article 12**

It is the duty of the State to care for and conserve nature and its biodiversity, protecting the environment and promoting sustainability and development.

**Article 13**

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

**Article 14**

The Constitution recognises and ensures the best interests of children and adolescents and the conditions for them to grow and develop in their families.

**Article 15**

1. Terrorism in any form is contrary to human rights. A law of qualified *quorum* shall determine terrorist conduct and its criminalisation.
2. Those responsible for these offences shall be disqualified for a period of fifteen years from exercising public functions or posts, whether or not they are popularly elected; or from being a rector or director of an educational establishment, or from exercising teaching functions therein; from operating a media outlet or being a director or administrator thereof, or from performing functions related to the broadcasting or dissemination of opinions or information therein. Nor may they be leaders of political organisations or organisations related to education or of a neighbourhood, professional, business, business, trade union, student or trade union nature in general, during this period. The foregoing is without prejudice to other disqualifications or those established by law for a longer period of time.
3. The offences referred to in paragraph 1 shall always be considered ordinary and non-political offences for all legal purposes.

## CHAPTER II FUNDAMENTAL RIGHTS AND FREEDOMS, CONSTITUTIONAL GUARANTEES AND DUTIES

### **Fundamental Rights and Freedoms**

**Article 16.** The Constitution secures to all persons:

1. The right to life. The death penalty is prohibited.
2. The right to personal integrity, which includes the right to physical and mental integrity. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Scientific and technological development shall be at the service of individuals and shall be carried out with respect for human dignity, life, physical and mental integrity and the other rights established by this Constitution. The law shall regulate the requirements, conditions and restrictions for its use on individuals, and shall especially safeguard brain activity, as well as the information derived therefrom.
3. The right to equality before the law, equal protection of the law and non-discrimination. Neither the law nor the authority may establish arbitrary differences. Men and women are equal before the law. In Chile there is no privileged person or group. In Chile there are no slaves and whoever sets foot on its territory is free.

All forms of discrimination, whether direct or indirect, are prohibited. The public authorities shall, in their actions, give special consideration to the confluence of more than one ground of arbitrary difference. In order for this right to be realised, the State shall take appropriate measures and reasonable accommodation as may be necessary.

4. The right to personal liberty and security of person. Accordingly:

- a) Everyone has the right to reside and stay in any part of the Republic, to move from one place to another and to enter and leave its territory, provided that the rules laid down by law are observed.
- b) The law shall regulate the entry, stay, residence and exit of foreigners from the national territory.
- c) No one may be deprived of his personal liberty, nor may it be restricted, except in the cases and in the manner determined by the Constitution and the law.
- d) No one may be arrested or detained except by order of a public officer expressly empowered by law and after being served with such an order in a lawful manner. However, anyone caught in flagrante delicto may be arrested for the sole purpose of being brought before the competent judge within twenty-four hours.
- e) No person may be arrested or detained, remanded in custody or imprisoned, except at his home or in public places intended for this purpose, in accordance with the law. The officer in charge of these places may not receive him without recording the act ordering it and his admission, which must be recorded in a public register. The person deprived of liberty may not be denied access to the official in charge of the place of detention and to his or her lawyer. The official is obliged, whenever the arrested or detained person so requests, to transmit the copy of the arrest warrant to the competent judge, or to request that he be given such a copy, or to give himself a certificate of the person's detention, if this requirement was omitted at the time of his arrest.
- f) Children under eighteen years of age deprived of their liberty shall be separated from adults and shall be subject to a regime appropriate to their age.
- g) The release of the accused shall proceed unless the detention or pre-trial detention is considered by the judge to be necessary for the investigations or for the safety of the offended party or society. The law shall establish the requirements and modalities for decreeing it.

5. Equal protection of the law in the exercise of their rights.

6. Access to justice, so that their rights are effectively protected. This includes information and the necessary means to exercise them; the existence of legal and judicial services, alternative dispute resolution mechanisms, and the adoption of the necessary measures to enable their realisation. Everyone has the right to legal defence in the manner prescribed by law. It is the duty of the State to provide legal assistance free of charge to any person who cannot obtain it for himself, in the manner established by law. No authority or individual may impede, restrict or disturb the due intervention of counsel if it has been requested. In the case of members of the Armed Forces and the Public Order and Security Forces, this right shall be governed, in administrative and disciplinary matters, by the relevant rules of their respective statutes. The State shall, in accordance with the law, provide criminal defence for those accused of acts that may constitute a crime, misdemeanour or petty offence and who lack legal defence.

The law shall indicate the cases in which and the manner in which natural persons who are victims of crimes shall be provided with free legal advice and defence, for the purpose of bringing criminal proceedings where appropriate.

7. The right to due process. This includes:

- a) The right to be heard and tried by a competent, independent, impartial tribunal, predetermined by law and established prior to the occurrence of the facts. No one shall be tried by special commissions.
- b) A process endowed with guarantees that enable rational and fair proceedings, procedures and decisions. Guarantees of a rational and fair procedure and investigation shall be established by law.
- c) Any judgment of a body exercising jurisdiction must be reasoned and based on a prior, lawful and timely process. It must be rendered within a reasonable time, with the right to enforcement and respect for res judicata.

8. Minimum penal guarantees:

- a) No law may establish penalties or security measures unless the conduct to be punished is precisely and expressly described therein.
- b) No law may establish disproportionate penalties or security measures.
- c) No offence shall be punishable by any penalty other than that prescribed by a law enacted prior to its commission, unless a new law favours the offender.
- d) Everyone has the right to a fair and reasonable investigation according to law and to be presumed innocent until a final judgement has been passed against him. Criminal responsibility may not be presumed by law.
- e) If the law in force at the time of the trial or execution of the criminal sentence is more favourable, it shall apply to acts committed prior to its entry into force.
- f) No one may be subjected to new criminal proceedings, or be sentenced to criminal proceedings for the same act for which he or she has been acquitted or convicted by a final judgement in accordance with the law.
- g) Any investigative or procedural action that deprives, restricts or disrupts the exercise of constitutionally guaranteed rights requires prior judicial authorisation.
- h) No person may be compelled to testify against himself or to acknowledge his responsibility. Nor may his or her ascendants, descendants, spouse and other persons who, according to the cases and circumstances, are specified by law, be compelled to testify against him or her.
- i) In criminal proceedings, the assistance of a defence counsel provided by the State is indispensable if one is not appointed at the time established by law.
- j) The penalty of confiscation of property may not be imposed, without prejudice to confiscation in cases provided for by law.
- k) The loss of pension rights may not be applied as a sanction.

9. The right to dignified, deferential, transparent, timely and objective treatment by government bodies. The services provided by State bodies shall be effective, timely and non-discriminatory. Decisions emanating from the Administration shall be duly grounded and challengeable in accordance with the provisions of the Constitution and the law. The exercise of administrative corrective and sanctioning powers shall be subject to criteria of legality, effectiveness, proportionality and equality before the law. The law shall determine the conditions for the administrative procedure to ensure adequate guarantees for individuals.

10. The right to respect and protection of their honour and that of their family members.

11. The right to respect and protection of their privacy and that of their family. The home and other private premises are inviolable. Entry and search or any search may be carried out with prior judicial warrant in specific cases and in the manner determined by law, without prejudice to the situation of flagrante delicto. Private communications and documents are also inviolable. Interception, seizure, opening, search or inspection may only be carried out with a prior court order issued in the specific cases and in the manner determined by law.

12. The right to respect and protection of your personal data and of your computer and digital security. Personal data may only be processed in the cases and under the conditions established by law.

13. The right to freedom of thought, conscience and religion. This right includes the freedom of everyone to adopt the religion or belief of his or her choice.

- a) Parents and, where applicable, guardians have the right to choose that their children or wards receive a religious, spiritual and moral education in conformity with their own convictions.
- b) Freedom of religion includes the free exercise of worship, the freedom to profess, retain and change religion or belief, either individually or in community with others, to profess and propagate religion or

belief, in public or in private, by worship, observance of rites, practices and teaching, which are not contrary to morals, decency or public order.

c) Religious denominations may erect and maintain temples and their outbuildings. Those intended exclusively for the service of worship shall be exempt from all taxes. Cooperation agreements may be concluded with them.

14. The right to freedom of expression, information and opinion, without prior censorship, in any form and by any means, without prejudice to subsequent liability for offences or abuses committed in the exercise of these freedoms, in accordance with a law with a qualified *quorum*.

a) The State may not restrict freedom of expression by direct or indirect means that impede the communication and circulation of ideas and opinions.

b) Any person offended or unjustly alluded to by any means of social communication has the right to have his statement or rectification disseminated free of charge, under the conditions determined by law, by the means of social communication in which the information was broadcast.

c) Any natural or legal person has the right to establish, edit and maintain media, whatever their platform, under the conditions established by law. The State, universities and other persons or entities determined by law may establish, operate and maintain television stations.

d) In no case may the law establish a state monopoly over the media.

e) There shall be a National Television Council, autonomous and with legal personality, responsible for overseeing the proper functioning of this medium of communication. An institutional law shall lay down the organisation and other functions and powers of this council.

f) The law shall regulate a rating system for the exhibition of film production.

15. The right to access, seek, request, receive and disseminate public information from any State body, with no other limitation than the grounds for secrecy or confidentiality established in this Constitution. An autonomous and specialised body shall be competent to promote and supervise the exercise of this right, performing such other functions as may be determined by an institutional law.

16. The right to assemble peacefully without prior permission and without arms. Meetings in squares, streets and other places of public use shall be governed by the provisions of this Constitution and the law.

17. The right to associate without prior permission for religious, political, economic, labour, social, cultural, sporting or any other purposes. Associations contrary to public order and state security are prohibited. The personnel of the Armed Forces and Public Order and Security may not belong to political parties, trade union organisations or to institutions, groups or bodies determined by law which are incompatible with their constitutional function. Membership shall always be voluntary. No one may be compelled to belong to an association. In order to enjoy legal personality, associations must be constituted in accordance with the law. The right to associate includes the right to form, organise and maintain associations, to determine their purpose, officers, members and internal statutes in order to pursue their aims. The professional associations constituted in accordance with the law shall be empowered to hear complaints lodged on the ethical conduct of their members. Appeals against their decisions may be lodged with the respective Court of Appeal. Non-member professionals shall be tried by the competent courts in accordance with the law.

18. The right to petition the authority on any matter of public or private concern, subject to no other limitation than to proceed in respectful and expedient terms, and the right to receive a reply from the authority within a reasonable time.

19. Admission to all public functions and jobs, with no other requirements than those imposed by the Constitution and the law.

20. The right to live in a healthy, sustainable and pollution-free environment, which allows the existence and development of life in its multiple manifestations.

a) It is the duty of the State to ensure that this right is not affected and to protect the preservation of nature and its biodiversity.

b) Specific restrictions on the exercise of certain rights or freedoms may be established by law to protect the environment.

21. The right to the protection of health in its physical, mental and social dimensions.

a) The State protects free, universal, equal and timely access to the promotion, prevention, protection and recovery of health and rehabilitation of the person. It shall also be responsible for the coordination and control of these actions, ensuring their availability, accessibility, acceptability and quality, addressing their social and environmental determinants, in accordance with the law.

b) It is the State's preferential duty to guarantee the execution of health actions, through state or private institutions, in the manner and under the conditions determined by law.

c) The State shall create, preserve and coordinate a network of health facilities, in accordance with basic and uniform standards of quality.

d) The State shall encourage the practice of sport in order to improve people's health and quality of life.

22. The right to education.

a) Education aims at the full development of the individual in the different stages of his or her life, in the context of a democratic society.

b) Education is governed by the principles of availability, accessibility, acceptability, adaptability, non-discrimination and others as provided by law. The State has an inescapable duty to strengthen education at all levels and to encourage its continuous improvement, through promotion, regulation and oversight. The establishments Educational institutions created or recognised by the State shall meet basic and uniform standards, in accordance with the law.

c) It is the duty of the State to promote nursery education, for which it will finance and coordinate a free system starting at the lower secondary level, aimed at ensuring access to this and its higher levels. The second transition level is compulsory and is a prerequisite for entry to basic education.

d) Basic and secondary education shall be compulsory, and the State shall finance and coordinate a free system for this purpose, aimed at ensuring access to them for the entire population. In the case of secondary education, it shall be compulsory until the age of twenty-one.

e) The allocation of public resources should follow criteria of reasonableness.

f) The State shall create, support and coordinate a national network of pluralistic educational institutions at all levels of education.

g) It is the duty of the community to contribute to the development and improvement of education. Likewise, it shall be the duty of the State to ensure the quality of education at all levels and to foster civic education, stimulate scientific and technological research, artistic creation and the protection and enhancement of the cultural heritage of the Nation.

h) Teachers are an essential part of the nation's educational endeavour. It is the duty of the state and of every educational community to promote the professional development and respect of teachers.

23. Freedom of education

a) Individuals have the right to open, organise, maintain and develop educational establishments, subject only to limitations imposed by public order and the security of the country.

b) State and officially recognised education shall not be oriented towards the propagation of party political tendencies.

c) The right and the preferential duty of families to choose the education of their children or wards in their best interests is recognised.

d) The State shall respect the autonomy of higher education institutions, in accordance with the law.

24. The right to culture.

a) The state safeguards the right to participate in cultural and scientific life. It protects creative freedom and its free exercise, promotes the development and dissemination of knowledge, arts, sciences, technology, cultural heritage and ensures access to cultural goods and services.

b) The State recognises the role that this right plays in the fulfilment of the individual and the development of the community and promotes it through collaboration between the State and civil society.

c) The State promotes, encourages and guarantees harmonious relations and respect for all manifestations of culture under the principles of collaboration and interculturality.

25. The right to decent work, free choice and free employment.

a) The right to decent work includes access to fair working conditions, occupational safety and health, as well as fair remuneration, rest and digital disconnection, with full respect for the fundamental rights of the worker as such. The law shall establish the conditions for the exercise of this right.

b) Any discrimination that is not based on personal capacity or suitability is prohibited, without prejudice to the fact that the law may require Chilean nationality or age limits for certain cases. Equal pay for work of equal value is also guaranteed, especially between men and women, in accordance with the law.

c) No kind of work is prohibited, except child labour and work declared by law to be contrary to morals, safety, public health or the interests of the nation. No law or provision of public authority may require membership of any organisation or entity as a requirement for carrying out a particular activity or work, or disaffiliation in order to remain in such activity or work. The law shall determine the professions that



require a university degree or diploma and the conditions that must be fulfilled in order to exercise them.

26. Freedom of association. This includes the right to organise, to bargain collectively and to strike.

a) The right to organise includes the right of workers to form and join trade union organisations of their own choosing, at any level, national and international, and to exercise in such organisations adequate autonomy to fulfil their own purposes and in accordance with the law.

b) No one may be compelled to join or resign from a trade union organisation. Workers shall enjoy adequate protection against acts of anti-union discrimination in relation to their employment.

c) The Constitution guarantees the right of workers to strike in defence of their labour interests. This right shall be exercised subject to the limitations established by a law with a qualified *quorum*.

d) Civil servants shall be entitled to the rights comprising freedom of association in accordance with a law of qualified *quorum*.

e) Members of law enforcement and security forces and the armed forces may not join trade unions, bargain collectively or exercise the right to strike.

f) Trade union organisations shall enjoy legal personality by the mere fact of registering their statutes and articles of association in accordance with the law.

27. The right to social security.

a) The State guarantees access to basic and uniform benefits, established by law, whether provided through public or private institutions, protecting people from the contingencies of old age, disability, death, illness, pregnancy, maternity, paternity, unemployment, accidents and occupational diseases, without prejudice to the establishment of other contingencies or circumstances established by law. The law may establish compulsory contributions.

b) The resources from which social security is financed shall be used only for the financing and administration of its benefits.

c) The State shall regulate and supervise the proper exercise of the right to social security in accordance with the law.

d) Laws regulating the exercise of this right shall have a qualified *quorum*.

28. The right to adequate housing.

a) The State shall promote, through public and private institutions, actions aimed at the progressive satisfaction of this right, with preference given to access to home ownership, in accordance with the law.

b) The State will adopt measures aimed at generating equitable access to basic services, public goods and spaces, safe and sustainable mobility, connectivity and road safety.

29. The right to water and sanitation, in accordance with the law. It is the duty of the State to guarantee this right for present and future generations. Use for human consumption and sufficient domestic use shall prevail.

30. The equal distribution of taxes in proportion to income or in the progression or form fixed by law and the equal distribution and proportionality of other legal public burdens.

a) The law may not establish manifestly disproportionate or unfair taxes.

b) The taxes collected, whatever their nature, shall be paid into the patrimony of the Nation and may not be earmarked for a specific purpose.

c) However, the law may authorise that certain taxes may be used for national defence purposes. Likewise, the law may authorise that certain taxes levied on activities or goods that have a clear regional or local identification may be applied, within the frameworks established by the same law, by the regional or communal authorities for the financing of development works.

31. The right to engage in any economic activity that is not contrary to public health, public order, or national security, in accordance with the law. A law with a qualified *quorum* may authorise the State and its agencies to engage in or participate in entrepreneurial activities. Such activities shall be subject to the ordinary law applicable to private individuals, subject to such exceptions as may be provided for by that law for justified reasons.

32. Non-arbitrary differentiation in the treatment of the state and its agencies in economic matters. Only by virtue of a law with a qualified *quorum*, and provided that it does not entail such discrimination, may certain direct or indirect benefits be authorised in favour of a sector, activity or geographical area, or establish special taxes affecting one or the other. In the case of exemptions or indirect benefits, the estimate of their cost shall be included annually in the Budget Law.

33. The freedom to acquire ownership of all kinds of property, except that which nature has made

common to all persons or which must belong to the Nation as a whole and which the law so declares. The foregoing is without prejudice to the provisions of other precepts of this Constitution. A law with a qualified *quorum*, when the national interest so requires, may establish prohibitions, limitations or requirements for the acquisition of ownership of certain property.

34. The right of ownership in its various forms over all kinds of tangible or intangible property. a) Only the law may establish the manner of acquiring, using, enjoying and disposing of property and the limitations and obligations deriving from its social function. This includes everything required by the general interests and security of the Nation, public utility and health, conservation of the environmental heritage and sustainable development.

b) No one may, in any case, be deprived of his property, of the asset on which it rests or of any of the essential attributes or powers of ownership, except by virtue of a general or special law authorising expropriation for reasons of public utility or national interest, as qualified by the legislature. The expropriated party may challenge the legality of the act of expropriation before the ordinary courts and shall always be entitled to compensation for the pecuniary damage actually caused, which shall be fixed by mutual agreement or in a judgment handed down in accordance with the law by the said courts. In the absence of agreement, the compensation shall be paid in cash.

c) Physical possession of the expropriated property shall be taken upon payment of the total compensation, which, failing agreement, shall be determined provisionally by experts in the manner prescribed by law. In the event of a complaint as to whether the expropriation is justified, the judge may, on the merits of the evidence invoked, order the suspension of the taking of possession.

d) The State has absolute, exclusive, inalienable and imprescriptible dominion over all mines, including covaderas, metalliferous sands, salt flats, coal and hydrocarbon deposits and other fossil substances, with the exception of surface clays, notwithstanding the ownership of natural or legal persons over the land in the bowels of which they are located. Surface lands shall be subject to such obligations and limitations as may be prescribed by law to facilitate the exploration, exploitation and beneficiation of such mines.

e) It is for the law to determine which of the substances referred to in the preceding paragraph, with the exception of liquid or gaseous hydrocarbons, may be the object of exploration or exploitation concessions. Such concessions shall always be constituted by judicial decision and shall have the duration, confer the rights and impose the obligations specified by law, which must have a qualified *quorum*. The mining concession obliges the owner to develop the activity necessary to satisfy the public interest that justifies its granting. Its protection regime shall be established by said law, it shall aim directly or indirectly at obtaining the fulfilment of this obligation and shall contemplate grounds for forfeiture in the event of noncompliance or simple extinction of ownership of the concession. In any case, such grounds and their effects must be established at the time the concession is granted.

f) It shall be the exclusive competence of the ordinary courts of justice to declare the extinction of such concessions. Disputes arising with respect to the lapse or extinction of ownership of the concession shall be resolved by them and, in the event of lapse, the affected party may request the courts to declare the subsistence of its right.

g) The holder's dominion over his mining concession is protected by the constitutional guarantee referred to in this paragraph.

h) The exploration, exploitation or benefit of deposits containing substances not subject to concession may be carried out directly by the State or by its companies, or by means of administrative concessions or special operating contracts, with the requirements and under the conditions established by the President of the Republic, in each case, by supreme decree. This rule shall also apply to deposits of any kind existing in maritime waters under national jurisdiction and to those located, in whole or in part, in areas which, in accordance with the law, are determined to be of importance for the security of the country. The President of the Republic may terminate, at any time, without cause and with the corresponding compensation, administrative concessions or operating contracts relating to operations located in areas declared to be of importance for the security of the country.

i) Waters, in any of their states, are national assets for public use. Consequently, their dominion and use belongs to all the inhabitants of the Nation. In the public interest, water use rights may be constituted and their exercise may be limited in accordance with the law. The right of use is a real right over water that confers on its owner the use and enjoyment of it, in accordance with the rules, temporality, requirements and limitations prescribed by law.

35. Copyright in their works.

a) The State recognises the author's right over his intellectual, artistic and scientific creations, which includes the ownership of the works and other rights, such as paternity, publishing and integrity of the work, all in accordance with and for the period of time established by law, which shall not be less than the life of the owner and the related rights that the law ensures.

b) Industrial property is also guaranteed on patents of invention, trademarks, industrial models, designs or other similar creations determined by law, for the period of time established by law.

c) The provisions of paragraph 34 above on the right of ownership shall apply to the ownership of intellectual and artistic creations and industrial property.

36. As consumers, access to goods and services in a free, informed and safe manner. The law shall regulate the rights and duties of consumers and suppliers, as well as the guarantees and procedures for enforcing them.

a) It is the duty of the state and its institutions to protect consumers from abusive practices and to guarantee the exercise of their rights, individually or collectively, by promoting education, health and safety in the consumption of goods or services.

b) It is the duty of the State to promote and defend free competition in economic activities.

## **Nationality and Citizenship**

### **Article 17**

1. They are Chilean:

a) Those born in the territory of Chile, with the exception of the children of foreigners who are in Chile in the service of their Government, and of the children of transient foreigners, all of whom, however, may opt for Chilean nationality.

b) The children of a Chilean father or mother born in foreign territory. However, it shall be required that one of their first or second degree lineal ascendants has acquired Chilean nationality by virtue of the provisions of subparagraphs a), c) or d).

c) Those who obtain a letter of naturalisation in accordance with the law.

d) Those who obtain special grace of nationalisation by law.

2. The law shall regulate the procedures for opting for Chilean nationality, the granting, refusal and cancellation of nationalisation letters and the formation of a register of all these acts.

3. However, those born according to the exceptional situation of subparagraph a) of paragraph 1 shall always be Chilean when, by virtue of the provisions of this rule, they become stateless.

### **Article 18**

1. Chilean nationality is lost:

a) By voluntary renunciation declared before the competent Chilean authority. This renunciation shall only be effective if the person has previously been naturalised in a foreign country.

b) By supreme decree, in case of rendering services during a foreign war to enemies of Chile or its allies.

c) By cancellation of the letter of naturalisation.

d) By revocation of the nationalisation granted by grace, in the cases and according to the procedure established by law.

2. Those who have lost their Chilean nationality for any of the reasons established in this Article may only be reinstated by law. The loss of nationality shall have no effect in respect of a person who thereby becomes stateless and for as long as this circumstance lasts.

### **Article 19**

1. Citizens are Chileans who have reached eighteen years of age and who have not been sentenced to afflictive punishment.

2. Citizenship confers the right to vote, to stand for elected office and other rights conferred by the Constitution or by law.

3. Citizens with the right to vote who are outside the country may vote from abroad in presidential primary elections, elections of the President of the Republic and national plebiscites.

4. In the case of Chileans referred to in paragraphs b) and d) of Article 17, the exercise of the rights conferred by citizenship shall be subject to the condition that they have been resident in Chile for more than one year.

### **Article 20**

1. Citizenship is lost:

a) For loss of Chilean nationality.

b) By sentence of afflictive punishment.

c) For conviction for offences which the law classifies as terrorist conduct and those relating to drug trafficking and which have also been punishable by affliction.

2. Those who have lost their citizenship on the grounds indicated in subparagraph b) shall regain it in accordance with the law once their criminal liability has been extinguished. Those who have lost citizenship on the grounds set out in subparagraph c) may apply to the Senate for reinstatement once they have served their sentence.

#### **Article 21**

1. Foreigners who have been resident in Chile for more than five years and who meet the requirements established by this Constitution may exercise the right to vote in the cases and in the manner determined by law.

2. Those nationalised in accordance with Article 17(c) shall be eligible for public office only after five years of possession of their letters of nationalisation.

#### **Article 22**

The right to stand for elected office is suspended only if the person is charged with an offence punishable by imprisonment.

### **Guarantees of Rights and Freedoms**

#### **Article 23**

1. The law may regulate, limit or supplement the exercise of fundamental rights.

2. The rights enshrined in this Constitution shall be subject only to such limits as are reasonable and can be justified in a democratic society.

3. In no case may a fundamental right be affected in its essence, nor may conditions, taxes or requirements be imposed that impede its free exercise.

#### **Article 24**

The State shall take appropriate steps to realise the rights to health, housing, water and sanitation, social security and education, taking into account:

a) Progressive development to achieve the full realisation of these rights.

b) Ensuring an adequate level of protection for each right.

c) Non-discrimination or arbitrary differentiation.

d) The removal of obstacles to ensure effective conditions of equality.

e) The use of the maximum available resources in a fiscally responsible manner.

f) Satisfaction through state and private institutions, as appropriate.

#### **Article 25**

The appropriate measures for the realisation of the rights indicated in the preceding Article shall be determined by law and the regulations based thereon. In the application and interpretation of the provisions of this article, the courts may not define or design public policies that realise the rights individualised in the preceding article.

#### **Article 26**

1. Anyone who, as a result of illegal or arbitrary acts or omissions, suffers deprivation, disturbance or threat to the legitimate exercise of the rights and guarantees established in section 16 of this Constitution, with the exclusion of the rights set out in the following subsection, may bring an action, either by himself or by anyone on his behalf, before the respective Court of Appeal, which shall immediately adopt such measures as it deems necessary to re-establish the rule of law. In the case of the right to live in a healthy, sustainable and pollution-free environment, this action shall proceed when it is affected by an illegal act or omission attributable to a specific authority or person.

2. In the case of social benefits linked to the exercise of the rights to health, housing, water and sanitation, social security and education established in article 16 of this Constitution, anyone who, as a result of illegal acts or omissions, suffers deprivation, disturbance or threat to the legitimate exercise of legal benefits or discrimination in access to them, may bring an action, either by himself or by anyone on his behalf, before the respective Court of Appeal, which shall immediately adopt the measures it deems necessary to re-establish the rule of law.

3. A law shall regulate the procedure for these actions, the processing of which shall be brief and concentrated, and shall be given preference for hearing and ruling.

4. The court may, before hearing the action, take any urgent interim measures.

5. Without prejudice to the provisions of the preceding paragraph, in the event that the Court rejects the action on the grounds that the matter is not of a prudential nature, it shall indicate the procedure which in law corresponds and which will allow the matter to be resolved.

6. The decision may be appealed before the Supreme Court, which shall hear and resolve the appeal, and may decide to group appeals of the same nature.

**Article 27**

1. Any person who is arrested, detained or imprisoned in contravention of the provisions of this Constitution or the laws may apply to the appropriate Court of Appeal on his own behalf or on behalf of anyone else. The said Court may order that the person concerned be brought before it and, if it is established that the detention has been or has become illegal, it shall order his release or shall immediately take such steps as it deems necessary to re-establish the rule of law and ensure due protection for the person concerned.

2. The same action may be brought in respect of a precautionary measure or custodial sentence judicially established, when in the execution of this, his constitutional rights have been violated. In this case, the court may go to the place where the person was detained, ordering the necessary measures to re-establish his or her rights.

3. Likewise, this action may be brought on behalf of any person who unlawfully suffers any other deprivation, disturbance or threat to his right to personal liberty and individual security on the part of an authority or private individual. In such cases, the respective magistrate shall order the measures indicated in the preceding paragraphs that he deems appropriate to re-establish the rule of law and ensure the due protection of the affected party.

4. The decision may be appealed to the Supreme Court, which shall hear and determine the appeal.

5. The law shall establish an amparo procedure, abbreviated and concentrated for the hearing and resolution of this action, which shall enjoy preference for its hearing and ruling.

**Article 28**

The person affected by an act of an administrative authority that deprives him of his Chilean nationality or denies it to him, may appeal, by himself or by anyone on his behalf, within a period of thirty days, before the Supreme Court, which shall hear the case as a jury and in full court. The sole lodging of the appeal shall suspend the effects of the act appealed against.

**Article 29**

Once a final dismissal or acquittal has been ordered, anyone who has suffered deprivation or restriction of liberty or has been convicted in any instance by a decision declared by the Supreme Court to be erroneous or arbitrary shall be entitled to compensation from the State for the pecuniary and nonpecuniary damages he has suffered. The compensation shall be determined judicially in brief and summary proceedings in which the evidence shall be assessed conscientiously.

**States of Emergency**

**Article 30**

1. The exercise of the rights and guarantees that the Constitution ensures to all persons can only be affected under the following situations of exception: external or internal war, serious internal commotion, emergency and public calamity, when they seriously affect the normal development of the institutions of the State.

2. Only the exercise of the rights and guarantees expressly set out in the following Articles may be restricted or suspended.

**Article 31**

1. A state of assembly, in the event of external war, and a state of siege, in the event of internal war or serious internal commotion, shall be declared by the President of the Republic, with the consent of the National Congress. The declaration shall determine the areas affected by the corresponding state of emergency.

2. The National Congress, within a period of five days from the date on which the President of the Republic submits the declaration of a state of assembly or siege for its consideration, shall decide whether to accept or reject the proposal, without being able to introduce modifications to it. If Congress fails to pronounce within the said period, it shall be deemed to approve the President's proposal.

3. However, the President of the Republic may apply the state of assembly or state of siege immediately while the National Congress is deciding on the declaration, but in the latter case. The State may only restrict the exercise of the right of assembly. Measures adopted by the President of the Republic until such time as the National Congress is convened may be subject to review by the courts of justice, without the provisions of Article 36, paragraph 1, being applicable in the meantime.

4. The state of assembly shall remain in force for as long as the situation of external war lasts, unless the President of the Republic orders its suspension beforehand.

5. The state of siege shall be in force for fifteen days from the date of its declaration. The President of the Republic may request its extension, for which he shall require the assent of the National Congress. In the event of a third extension or those that succeed it, the affirmative vote of the absolute majority of the Deputies and Senators in office shall be required.

6. By declaring a state of assembly, the President of the Republic shall be empowered to suspend or restrict personal liberty, the right of assembly and freedom of labour. He may also restrict the exercise of the right of association, intercept, open or search documents and all kinds of communications, order requisitions of property and establish limitations on the exercise of the right to property.

7. By the declaration of a state of siege, the President of the Republic may restrict freedom of movement and arrest persons in their own dwellings or in places determined by law which are not prisons and are not intended for the detention or imprisonment of common criminals. He may also suspend or restrict the exercise of the right of assembly.

#### **Article 32**

1. In the event of a public calamity, a state of disaster shall be declared by the President of the Republic, who shall determine the area affected by the disaster.

2. The National Congress may annul the declaration one hundred and eighty days after it has been made, if the reasons for which it was made have ceased absolutely. However, in his first declaration, the President of the Republic may only declare a state of disaster for a period of more than one year with the agreement of the National Congress. Likewise, the President of the Republic may request any extension period, which shall also require the agreement of Congress.

3. The National Congress, within a period of five days from the date on which the President of the Republic submits the declaration of a state of catastrophe, shall make a pronouncement accepting or rejecting the proposal, without being able to introduce modifications to it. The aforementioned agreement shall be processed in the manner provided for in subsection 2 of article 31.

4. Once a state of disaster has been declared, the respective zones shall be under the immediate dependence of the Chief of National Defence appointed by the President of the Republic. This authority shall assume the direction and supervision of those zones with the powers and duties established by law.

5. By declaring a state of disaster, the President of the Republic may restrict freedom of movement and assembly. He may also order requisitions of property, establish limitations on the exercise of the right to property and adopt any extraordinary measures of an administrative nature that may be necessary for the prompt restoration of normality in the affected area.

#### **Article 33**

1. A state of emergency shall be declared by the President of the Republic in the event of a serious disturbance of public order or serious damage to internal security, and the areas affected by such circumstances shall be determined by the President of the Republic. The state of emergency may not be extended for more than fifteen days, without prejudice to the possibility of the President of the Republic extending it for an equal period. However, for successive extensions, the President shall always require the agreement of the National Congress. The aforementioned agreement shall be processed in the manner provided for in subsection 2 of article 31.

2. Once a state of emergency has been declared, the respective zones shall be under the immediate dependence of the Chief of National Defence appointed by the President of the Republic. This authority shall assume the direction and oversight of those zones with the powers and duties established by law.

3. By declaring a state of emergency, the President of the Republic may restrict freedom of movement and assembly.

#### **Article 34**

In states of constitutional emergency, the respective national defence headquarters shall act in accordance with the law with the civilian authorities.

#### **Article 35**

1. A law with a qualified *quorum* shall regulate states of emergency, as well as their declaration and the application of the legal and administrative measures to be adopted under them. This law shall consider what is strictly necessary for the prompt re-establishment of constitutional normality and may not affect the powers and functioning of the constitutional bodies or the rights and immunities of their respective incumbents.

2. The President of the Republic shall report to the National Congress on the measures adopted by virtue of the declaration of constitutional states of emergency. The respective institutional law shall regulate the manner in which this duty shall be fulfilled.

3. Under no circumstances may measures adopted during states of emergency be extended beyond the duration of the state of emergency.

#### **Article 36**

1. The courts of justice may not qualify the grounds or the factual circumstances invoked by the authority to decree states of emergency, without prejudice to the provisions of Article 30. However, with respect to particular measures that affect constitutional rights, there shall always be the guarantee of recourse to the judicial authorities through the appropriate remedies.

2. The decree of the President of the Republic and the administrative acts of the Chief of National Defence issued by virtue of the declaration of a state of constitutional emergency shall expressly indicate the rights that are restricted or suspended.

3. Requisitions shall give rise to compensation in accordance with the law. Limitations imposed on the right to property shall also give rise to compensation when they entail the deprivation of any of its essential attributes or faculties and damage is thereby caused.

#### **Article 37**

For the declaration and renewal of states of constitutional exception, the President of the Republic and the National Congress shall consider proportionality and necessity and shall limit themselves, with respect to their duration, extension and means employed, to what is necessary for the prompt restoration of constitutional normality.

### **Constitutional Duties**

#### **Article 38**

1. All people must respect each other and behave in a spirit of brotherhood and solidarity. They must also honour the republican tradition, defend and preserve democracy, and faithfully and loyally observe the Constitution and the law.

2. Likewise, they must contribute to preserving Chile's environmental, cultural and historical heritage.

3. It is the duty of all inhabitants of the Republic to protect the environment, considering future generations and to prevent the generation of environmental damage. In the event of such damage, they shall be responsible for the damage they cause, contributing to its reparation in accordance with the law.

4. Every inhabitant of the Republic owes respect to Chile and its national emblems. Chileans have a duty to honour the homeland.

5. All citizens who exercise public functions have the duty to perform their duties faithfully and honestly, complying with the principle of probity in all their actions. Fighting corruption is a duty of all the inhabitants of the Republic.

6. The inhabitants of the Republic must fulfil public duties, contribute to the support of public expenditure by paying taxes, and vote in elections, referendums and plebiscites, all in accordance with the Constitution and the law. They must also defend peace and use peaceful methods of political action.

7. The inhabitants of the Republic have the duty to assist, nourish, educate and protect their children. For their part, they have the duty to respect their fathers, mothers and ascendants and to assist, nourish and help them when they are in need.

8. Every person, institution or group must ensure that the dignity of children is respected.

## **CHAPTER III POLITICAL REPRESENTATION AND PARTICIPATION**

#### **Article 39**

1. People have the right to participate in matters of public interest, through the election of representatives, referendums and plebiscites established by the Constitution and through the mechanisms of participation, in accordance with the Constitution and the law.

2. It is the duty of state bodies to respect and promote the exercise of this right, tending to encourage broad public deliberation.

#### **Article 40**

1. In popular votes, plebiscites and referendums, suffrage shall be personal, equal, secret, informed and compulsory. The law shall establish the penalties to be applied for failure to comply with this duty. In primary elections called by virtue of the provisions of article 45, paragraph 10, suffrage shall be voluntary.

2. A popular vote may be held only for elections, referendums and plebiscites expressly provided for in this Constitution.

#### **Article 41**

1. There shall be a public electoral system. An electoral law shall determine its organisation and operation, shall regulate the manner in which popular votes, plebiscites and referendums shall be held within Chile and abroad, in all matters not provided for in this Constitution.

2. This law shall also provide for a system of electoral registration under the direction of the Electoral Service, into which those who meet the requirements established by this Constitution shall be incorporated, by the sole authority of the law.

3. The electoral law shall regulate electoral propaganda and shall also establish a system of public financing, transparency, limits and control of electoral expenditure.

4. Independents may participate in the nomination of candidates and in electoral processes in accordance with electoral law.

5. The protection of public order during elections, plebiscites and referendums shall be the responsibility of the Armed Forces, the Carabineros de Chile and other institutions established by law and in accordance with the law.

### **Political parties**

#### **Article 42**

1. Political parties are democratically organised, autonomous and voluntary associations, endowed with legal personality under public law, made up of natural persons who share the same ideological and political principles. Their purpose is to contribute to the functioning and strengthening of the democratic system, to represent groups in society, and to influence the conduct of the state, in order to achieve the common good and the public interest.

2. Political parties express political pluralism, are mediators between the people and the State and participate in the formation and expression of the will of the people. They are a fundamental instrument for democratic political participation and for channelling citizen participation through the mechanisms established by this Constitution and the law. They contribute to the integration of national representation, to the respect, guarantee and promotion of the human rights recognised in the Constitution and in the international treaties ratified and in force in Chile.

#### **Article 43**

All citizens shall have the right to associate freely in political parties, subject to the exceptions established by this Constitution and the law.

#### **Article 44**

1. The Constitution guarantees political pluralism. Political parties shall be free to define and modify their declarations of principles, programmes and agreements; to put forward candidates in elections and, in general, to carry out their own activities in accordance with the law.

2. Political parties, movements or other forms of organisation whose objectives, acts or conduct do not respect the basic principles of the democratic regime, as well as those that make use of, advocate or incite violence, shall be declared unconstitutional. The Constitutional Court shall be responsible for hearing and judging these matters.

3. Political parties shall adopt governance and oversight mechanisms to prevent violations of probity and transparency, in accordance with institutional law.

#### **Article 45**

1. The law shall determine the requirements for forming and dissolving a political party and other norms for carrying out its activities, and shall indicate the rules to which public financing for its ordinary functioning and for electoral campaigns shall be subject. Its income may only be of national origin and under no circumstances may it receive contributions of any kind from legal persons other than the Treasury. Its accounts must be public.

2. The statutes of political parties shall provide for rules that ensure effective internal democracy and shall be subject to the standards of transparency, probity and accountability established by law.

3. The law should provide for mechanisms to ensure a balanced participation of women and men in the composition of its collegiate bodies.

4. Legally constituted parties must have rules on party discipline, with specific sanctions for noncompliance.

5. The law shall regulate the cases, timing and manner in which the governing bodies of a political party may issue party orders to its parliamentary members. Such party orders shall be exceptional and shall



relate to matters in which the principles of the party or its programme are directly at stake. However, party orders may not be given when the Member of Parliament is called upon to sit on a jury.

6. Political parties are eligible for public funding when they are constituted and comply with the rules governing their functioning and internal organisation.

7. The general register of members of a political party shall be administered by the Electoral Service and shall be reserved, except for its respective members.

8. Its internal elections shall be administered by the Electoral Service and qualified by the Tribunal Calificador de Elecciones, in the manner established by law.

9. The sanctioning power of political parties is vested in their supreme court and regional courts. It shall be applied with the guarantees of a fair and rational procedure. The final judgement of the supreme court that has ordered or confirmed the application of a sanction may be challenged before the Tribunal Calificador de Elecciones and shall only take effect once it is enforceable.

10. An electoral law shall establish a system of primary elections which may be used by political parties for the nomination of candidates for elected office as determined by law, the results of which shall be binding on such parties, subject to such exceptions as may be provided for by law. Those who are not elected in the primary elections may not be candidates, in that election, for the respective office.

## **Participation mechanisms**

### **Article 46**

The institutional law of the National Congress will establish mechanisms for citizen participation in the process of law formation, enabling a repository that gathers the information generated by virtue of these, in order to guide parliamentary debate.

### **Article 47**

1. A group of persons eligible to vote equivalent to four per cent of the last electoral roll and no more than six per cent of that roll may present a popular initiative of law to any of the branches of the National Congress for its legislative processing. This mechanism shall not be used to reform the Constitution.

2. The initiatives must be presented in writing, contain the main or fundamental ideas that motivate them and the proposed articles. If they deal with a matter of exclusive initiative of the President of the Republic, once the required support has been gathered, the Electoral Service shall send the project to the President, who shall decide whether to sponsor it within a period of thirty days, in which case it must comply with the provisions of article 79.

3. Popular law initiatives shall be registered with the Electoral Service, which shall have a technological and expeditious system, after which there shall be a period of one hundred and eighty days for the proposal to be known by the citizens and to be able to gather the support required in paragraph 1. The provisions of article 89 shall be applicable to the processing of these initiatives.

4. The National Congress will report to the public every six months on the initiatives presented and their status.

### **Article 48**

1. A group of persons eligible to vote, equivalent to three percent of the last electoral roll, may submit to the Electoral Service an initiative to repeal all or part of a law, to be voted on in a referendum, within sixty days of its publication. This initiative must gather a total support of not less than seven per cent and not more than twelve per cent of the last electoral roll within sixty days of its submission. The Electoral Service shall have a technological and expeditious procedure for gathering support. If the deadline has elapsed without such support being gathered, the Electoral Service shall shelve the initiative.

2. The initiative must expressly state the law or articles to be repealed and the grounds for repealing them. The initiative to repeal a law may not refer to laws or provisions that correspond to matters of exclusive initiative of the President of the Republic or to those linked to international treaties, nor to constitutional reforms. Nor may it produce an effect that contravenes the Constitution or rights acquired under the current legal system. For the purposes foreseen in this subsection, the Electoral Service shall refer the initiative presented to the Constitutional Court.

3. The Constitutional Court shall conduct an admissibility examination to verify compliance with the requirements set out in the previous paragraph, in accordance with the institutional law of the Constitutional Court. The referendum may only be called by the President of the Republic if the initiative to repeal a law has been declared admissible.

4. The proposal submitted to referendum shall be approved if at least forty percent of the citizens who voted in the last election of deputies have participated and the referendum is approved by an absolute majority of the votes validly cast.
5. If the referendum is approved, the Tribunal Calificador de Elecciones shall communicate the result to the President of the Republic and to the National Congress, who shall adopt, as appropriate, the measures to proceed with the repeal in accordance with the will expressed in the referendum.
6. Notwithstanding the foregoing, the National Congress shall examine the effects of such repeal and adopt the measures that may be appropriate as a result thereof.
7. The institutional law shall determine the procedure for holding the referendum.

**Article 49**

1. The bodies of the State Administration should guarantee the participation of people in public management, establishing favourable conditions for its effective exercise.
2. The law should provide for public hearings or consultations in the process of drafting general regulations at the various levels of state administration, as well as the necessary mechanisms for compiling and systematising the data and information generated in such hearings or consultations.

**Article 50**

1. The law shall establish citizen deliberation forums that shall collaborate in the resolution of a specific matter of public debate, be it of national, regional or communal scope, previously defined by the corresponding authority in each case. The deliberative forums shall be of a consultative nature and shall have the duty to deliberate and make recommendations on matters expressly submitted to them in accordance with the law.
2. The law shall define the creation of an impartial collegiate body whose function shall be to convene the deliberative forum at the request of the competent authority and to ensure the proper implementation of this deliberative procedure. To this end, it may collect the information necessary for the deliberation of the citizens' forum, convene debates and dialogues, and other activities. required for the correct development of deliberative democracy procedures.
3. The law shall regulate that the deliberative forum shall be chosen by a random selection mechanism among citizens, who may accept or reject the call to participate. In the case of regional or communal matters, the consultative forum shall be made up of citizens registered in the corresponding region or commune, respectively. The random composition of the forum shall guarantee a representative, diverse and pluralistic participation of the population. The law shall also regulate the cases and matters in which the formation of this deliberative forum shall be obligatory and the *quorum* necessary for its constitution and valid functioning. This citizens' forum shall be accountable to the public for its conclusions and recommendations.

**Article 51**

1. The regional governor or the mayor, as the case may be, with the agreement or at the request of two-thirds of the regional councillors or councillors in office, or a group of persons entitled to vote representing eight per cent of the regional or communal electoral roll, respectively, may submit to plebiscite those matters of municipal or regional competence, as the case may be, expressly indicated in the institutional law. What is approved in these plebiscites by an absolute majority of the validly cast votes shall be binding for the regional or communal authorities, provided that it meets the corresponding *quorum* and other requirements established by law.
2. The institutional law shall regulate the timing and form of the call for regional and local plebiscites, the time at which they may be held, the requirements for citizens to sponsor an initiative, and the mechanisms for voting and scrutiny.
3. In no case may the resolutions of these plebiscites modify what is established in the regional or municipal budgets or affect other regions or communes.

**Article 52**

1. The regional council or municipal council may, at the request of the regional governor or mayor, as the case may be, or of two-thirds of the regional councillors or municipal councillors in office, consult the citizens of its region or commune on its budgetary priorities. Such consultation shall not be binding.
2. The law shall determine the opportunities and manner of convening such consultations, as well as the manner in which those consulted shall be considered by the local authorities when drawing up the regional or municipal budget. Such consultation shall take place at least once per regional or municipal mandate.

## CHAPTER IV NATIONAL CONGRESS

### **Article 53**

1. The National Congress is composed of two branches: the Chamber of Deputies and Deputies and the Senate. Both concur in the formation of laws in accordance with this Constitution and have the other powers established therein.
2. The law may establish mechanisms to promote the political participation of indigenous peoples in the National Congress.

### **Composition of the Chamber of Deputies and the Senate**

#### **Article 54**

1. The Chamber of Deputies consists of members elected by direct vote by electoral districts. The respective electoral law shall determine the number of deputies, the electoral districts and the manner of their election.
2. The Chamber of Deputies shall be renewed in its entirety every four years.
3. The distribution of seats among the districts shall aim at equitable representation according to the population of the electoral territory.

#### **Article 55**

1. The Senate shall be composed of members elected by direct ballot by senatorial constituencies, taking into consideration the regions of the country, each of which shall constitute at least one constituency. The respective electoral law shall determine the number of senators, the senatorial districts and the manner of their election.
2. Senators shall serve for a term of eight years and shall be renewed in halves every four years, in the manner determined by the respective electoral law.

#### **Article 56**

1. In order to be elected Deputy or Senator, it is necessary to be a citizen with the right to vote, to have completed secondary education or its equivalent, to have reached the age stipulated in the following paragraph, and to have resided in the region to which the corresponding electoral territory belongs for a period of not less than two years, counted backwards from the day of the election.
2. The age requirements for election as a deputy or senator shall be twenty-one or thirty-five years of age on the day of election, respectively.

#### **Article 57**

1. Deputies and Senators shall be deemed to have, by operation of law alone, their residence in the region concerned while they are in office.
2. The elections of deputies and senators shall be held jointly on the fourth Sunday after the first ballot for the election of the President of the Republic.
3. Deputies may be successively re-elected to office for up to two terms; Senators may be successively re-elected to office for up to one term. For these purposes, Deputies and Senators shall be deemed to have held office for a term when they have served more than half of their term of office. However, in no case shall successive periods be counted as successive periods for the application of this rule when the office of Deputy or Senator has been held non-consecutively.
4. Vacancies of deputies and senators shall be filled by the citizen indicated by the political party to which the parliamentarian who created the vacancy at the time of election belonged.
5. Parliamentarians elected as independents will not be replaced.
6. Parliamentarians elected as independents who have stood for election in association with a political party shall be replaced by the citizen indicated by the party that declared their candidacy.
7. In order to fill the vacancies referred to in paragraphs 4 and 6, the respective political parties shall follow the procedures established in their statutes, which shall include the mechanisms for consulting the internal bodies that they determine.
8. The replacement shall meet the requirements for election as a Member of Parliament or as a Senator, as the case may be. However, a deputy may be nominated to fill the seat of a senator, in which case the rules of the preceding paragraphs shall apply to fill the vacancy left by the deputy, who, on taking up his or her new post, shall cease to hold the post he or she was holding.
9. The new deputy or senator shall serve for the unexpired term of the person who created the vacancy, which shall not be taken into account for the limit established in paragraph 3.

10. In no case shall supplementary elections be held.

#### **Article 58**

1. The electoral law shall provide that a proportional system shall be applied in parliamentary elections.
2. The declaration of lists consisting solely of independent candidates shall not be admissible.
3. The Board of Directors of the Electoral Service shall be responsible for updating, every ten years, the allocation of deputy seats among the established districts, in accordance with the procedure and within the deadlines established in the electoral law.
4. Only political parties that obtain at least five per cent of the votes validly cast at national level in the election of members of the respective Chamber of Deputies and Deputies shall be entitled to participate in the allocation of seats in the Chamber of Deputies and Deputies. This rule shall not apply to a party that has enough seats to win at least eight members of the National Congress, including those eventually elected in that election of deputies and senators who remain in office until the next election. The votes obtained by the political parties that do not obtain seats in accordance with the above rules shall be allocated to the parties in the pact that do meet the requirements for membership of the Chamber of Deputies and Deputies, in proportion to the number of votes obtained by them in the respective electoral district.
5. For independents on a party list, the rules of the preceding paragraphs shall apply.
6. The calculation of the percentages indicated will be made according to the general count carried out by the Tribunal Calificador de Elecciones.

#### **Exclusive powers of the Chamber of Deputies and Deputies**

##### **Article 59**

These are exclusive powers of the Chamber of Deputies:

a) Exercise supervisory powers. To this end, the Chamber may:

- 1) Adopt resolutions or suggest observations, with the vote of the majority of the deputies present, which shall be transmitted in writing to the President of the Republic, who shall give a reasoned reply through the appropriate Minister of State, within thirty days of receipt of such communication. Without prejudice to the foregoing, any Member of Parliament may, with the favourable vote of one third of the Members present, request certain information from the President of the Republic and from the bodies of the State Administration determined by the institutional law of the National Congress, who shall reply with a reasoned reply through the appropriate Minister of State, within the same period of time as indicated in the previous paragraph. In no case shall agreements, observations or requests for background information affect the political responsibility of ministers of state.
- 2) To summon a Minister of State, at the request of at least one third of the Members in office, in order to put questions to him or her on matters relating to the exercise of his or her duties. However, the same Minister may not be summoned for this purpose more than three times in any calendar year without the prior agreement of an absolute majority of the Deputies in office. The Minister's attendance shall be compulsory and he/she shall be required to answer the questions and queries on the basis of which he/she is summoned.
- 3) To set up special investigative committees at the request of at least two-fifths of the Members in office, for the purpose of gathering information on certain acts of the Government. The respective request shall be submitted in writing to the Secretariat of the House, and shall indicate in detail the subject matter on which it is to be based, the period to be covered by the investigation, and the time limit for the completion of the task. The Secretariat of the House, prior to the next sitting of the House, shall ensure that the request complies with the above requirements. If the application does not meet the above-mentioned requirements, it may not be renewed until six months have elapsed. After this period has elapsed, the application may be resubmitted, provided that there is new information to justify it. A special committee of inquiry may not operate for more than ninety non-extendable days. On expiry of that period, it shall draw up its final report within fifteen days of the last meeting. These, at the request of one third of their members, may issue summonses and request background information. Ministers of State, other authorities and officials of the State Administration, the personnel of State enterprises or of those in which the State has a majority shareholding, and those who have exercised such functions in the last year, who are summoned by these commissions, shall be obliged to appear and to provide the background information and information requested of them. In the event of failure to appear, they may be sanctioned by the Office of the Comptroller General of the Republic, in accordance with the law.

However, the persons referred to in the previous paragraph may not be summoned more than three times to the same special committee of inquiry without the prior agreement of an absolute majority of its members.

The institutional law of the National Congress shall regulate the functioning and powers of the special investigative commissions and the manner of protecting the rights of the persons cited or mentioned in them.

b) To declare whether or not the accusations made by not less than fifteen and not more than twenty of its members against the following persons are admissible or inadmissible:

1) Of the President of the Republic, for acts of his administration which have seriously compromised the honour or security of the Nation, or openly infringed the Constitution or the laws. This accusation may be brought while the President is in office and within six months of the expiry of his term of office. During the latter period, he may not leave the country without the consent of the House.

2) Ministers of State, for having seriously compromised the honour or security of the Nation, for having violated the Constitution or the laws or for having left them unenforced.

3) Judges of the High Courts of Justice and the Comptroller General of the Republic, for notable neglect of their duties. Judges may in no case be impeached on the merits of the decisions they hand down.

4) Generals or admirals of institutions belonging to the Armed Forces, for having seriously compromised the honour or security of the Nation.

5) Regional governors, representatives of the President of the Republic in the regions and provinces and the authority exercising government in the special territories referred to in Article 139 in violation of the Constitution. The accusation shall be processed in accordance with the institutional law relating to the National Congress. The vote of a majority of the Members in office shall be required for the indictment to be declared admissible. In no case shall a party order be given on such a vote. Only the charges referred to in (2), (3), (4) and (5) may be brought while the person concerned is in office or within three months of the expiry of his or her term of office. Once such an indictment has been filed, the person concerned may not leave the country without the permission of the House and may not do so in any case if the indictment has already been approved by the House. The accused shall, in such cases, be suspended from office from the moment the impeachment is declared by the House. The suspension shall cease if the Senate dismisses the indictment or if it fails to take a decision within thirty days thereafter. In the case of Ministers of State, it shall be a prerequisite for the filing of a constitutional impeachment to have exercised the power referred to in number 2) of subparagraph a) of this Article.

The person concerned may appoint a lawyer to represent him/her at all stages of the constitutional accusation, and may attend and intervene in the respective chamber and committee sessions.

## **Exclusive powers of the Senate**

### **Article 60**

1. These are exclusive powers of the Senate:

a) To hear charges brought by the Chamber of Deputies under the previous article.

1) The Senate shall decide as a jury and shall confine itself to declaring whether or not the accused is guilty of the crime, offence or abuse of power with which he is charged. Only those who attend all sessions at which the indictment is reviewed may participate in this decision.

2) The committee of deputies that is appointed to formalise and pursue the indictment in the Senate should be composed of three of the deputies who brought the indictment.

3) The declaration of guilt shall be pronounced by two-thirds of the Senators in office in the case of an accusation against the President of the Republic, and by three-fifths of the Senators in office in other cases. In no case shall a party order be given on this vote.

4) Upon conviction, the accused shall be removed from office and shall be barred from holding any public office, whether elected or not, for a period of five years.

5) The official found guilty shall be tried in accordance with the law by the competent court, both for the application of the penalty for the offence, if any, and for the enforcement of civil liability for damages caused to the State or to private individuals.

6) Officials indicted by the Chamber of Deputies and Deputies and convicted by the Senate can only be pardoned by the National Congress.

b) Decide whether or not to admit legal actions that any person intends to bring against any Minister of State, on the grounds of damages that he or she may have unjustly suffered as a result of his or her actions in the performance of his or her duties.

- c) To hear disputes of jurisdiction arising between the political or administrative authorities and the higher courts of justice.
  - d) Grant rehabilitation of citizenship in the case of Article 20(2).
  - e) To give or withhold its consent to the acts of the President of the Republic or to the appointments of the authorities and officials proposed by him, in the cases and in accordance with the *quorum* required by the Constitution or the law. If the Senate does not make a decision within thirty days of the President of the Republic requesting the urgency of the matter, the matter shall be put to the vote, by the sole power of the Constitution, at the nearest chamber session. The institutional law of the National Congress shall provide for hearings and other mechanisms that favour public scrutiny of the nominee's merit.
  - f) To give its consent for the President of the Republic to be absent from the country for more than thirty days or from the day referred to in Article 94(1).
  - g) To declare, by a two-thirds majority of the Senators in office, the disqualification of the President of the Republic or the President-elect when a physical or mental impediment prevents him from exercising his functions; and to declare in the same way, when the President of the Republic resigns from his office, whether or not the reasons for his resignation are well-founded and, consequently, to admit or reject it.
  - h) Give its opinion to the President of the Republic in cases where the President of the Republic so requests.
2. The Senate, its committees and other bodies, including Parliamentary committees, if any, may not oversee the acts of the Government or its subordinate bodies, nor adopt resolutions involving oversight.

### **Exclusive powers of the National Congress**

#### **Article 61**

These are powers of the National Congress:

- a) Approve or reject international treaties submitted to it by the President of the Republic prior to ratification. The approval of a treaty shall be subject, as appropriate, to the formalities of a law.
  - 1) The President of the Republic shall inform Congress of the content and scope of the treaty, the reservations he intends to confirm or formulate. In the statement of his reasons he shall indicate the effects which the norms of the treaty may have on the national legal order and the specific mention of those which he considers to be self-executing.
  - 2) The Congress may suggest the formulation of reservations and interpretative declarations to an international treaty in the course of the procedure for its adoption, provided that they are in accordance with the provisions of the treaty itself or with the general rules of international law.
  - 3) The measures which the President of the Republic adopts or the agreements which he concludes for the implementation of a treaty in force shall not require new approval by Congress, unless they deal with matters which are proper to law. Treaties concluded by the President of the Republic in the exercise of his regulatory power shall not require the approval of Congress, but must in any case be reported to Congress.
  - 4) The consent of the Congress shall be required for the withdrawal, denunciation or termination by common consent of a treaty which it has approved and for the withdrawal of a reservation taken into consideration by the Congress at the time of its approval. The Congress shall take its decision within thirty days of receipt of the letter requesting its consent.
  - 5) Withdrawal, denunciation or termination by common consent of treaties which have not been approved by the Congress shall be reported to the Congress within fifteen days of the exercise of the power.
  - 6) Once the denunciation, withdrawal or termination by mutual consent produces its effects in accordance with the provisions of the international treaty, it shall cease to have effect in the Chilean legal order.
  - 7) In accordance with the provisions of the law, due publicity shall be given to facts relating to the international treaty, such as its entry into force, the formulation and withdrawal of reservations, interpretative declarations, objections to a reservation and its withdrawal, denunciation of the treaty, withdrawal, suspension, termination and invalidity of the treaty.
  - 8) The provisions of a treaty may be derogated from, modified or suspended only in the manner provided for in the treaties themselves or in accordance with the general rules of international law.
  - 9) In the same agreement approving a treaty, Congress may authorise the President of the Republic so that, during the period of validity of the treaty, he may dictate the provisions with the force of law which

he deems necessary for its full compliance, in which case the provisions of Article 77 shall be applicable.

10) The President of the Republic shall inform Congress of agreements or alternative solutions to disputes reached in international bodies when these involve legal changes.

b) To pronounce, where appropriate, on states of constitutional emergency, in the manner prescribed by this Constitution.

## **Functioning of the National Congress**

### **Article 62**

1. The National Congress shall be installed and shall begin its session in the manner determined by its institutional law.

2. In any case, it shall always be understood to be convened as of right to hear the declaration of states of constitutional emergency.

3. The institutional law of the National Congress shall regulate the processing of constitutional accusations, the qualification of urgencies and everything related to the internal processing of the law. It will also establish the basis for an organisation by benches in each chamber, the rights and obligations of the parliamentarians who are part of them, as well as the consequences of resigning from them.

### **Article 63**

1. The Chamber of Deputies and the Senate may not enter into session or adopt resolutions without the concurrence of one third of its members in office.

2. Each House shall provide in its own rules of procedure for the closure of debate by simple majority and shall determine the days on which chamber sittings shall be devoted to hearing motions.

3. Parliamentarians elected as independents and who have not run as members of a political party must join a caucus in accordance with the rules of procedure of the House of which they are a member.

### **Article 64**

1. During the month of July of each year, the President of the Senate and the President of the Chamber of Deputies shall give a public account to the country, in a session of the Plenary Congress, of the activities carried out by the Corporations over which they preside.

2. The Rules of Procedure of each House shall determine the content of such an account and regulate the manner in which this obligation is to be fulfilled.

### **Article 65**

Annually, deputies and senators shall give a participatory public account in their district or senatorial constituency, as appropriate, of the activities carried out in the exercise of their office. Its regulation shall be left to the rules of procedure of each House.

### **Article 66**

1. Ministers of State, as agreed by the Chamber of Deputies at the beginning of the legislature, shall attend the respective committee to present the legislative agenda of their portfolio for the year.

2. The Under-Secretaries may attend the chamber sessions of both Houses.

### **Article 67**

1. The work of the National Congress will receive technical and independent support from the Library of Congress and the Parliamentary Office of Public Finance and Regulatory Impact, as services common to both branches.

2. The Parliamentary Office of Public Finance and Regulatory Impact shall be responsible for the analysis of the financial and regulatory impact of draft legislation, as well as for the analysis of the Law. The Budget and the monitoring of its execution and the results of its programmes. In no case may the performance of this task imply the exercise of executive functions or affect the powers of the President of the Republic, or carry out acts of control.

### **Article 68**

There shall be a Council of Ethical Control that may apply sanctions to parliamentarians in the event of non-compliance with their duties. The institutional law of the National Congress shall regulate the composition of this council, which may not be composed of authorities or officials of the National Congress or of the exclusive confidence of the President of the Republic, as well as reproachable conduct, financial penalties, procedures for applying them and other related matters.

**Parliamentary Statute****Article 69**

1. They cannot be candidates for deputies or senators:
  - a) Ministers of State and Under-Secretaries.
  - b) Regional governors, representatives of the President of the Republic in the regions and provinces, mayors, regional councillors and councillors.
  - c) The members of the Central Bank Council.
  - d) Judges of the High Courts of Justice and judges of the ordinary and special courts.
  - e) The members of the Constitutional Court, the Tribunal Calificador de Elecciones and the regional electoral tribunals
  - f) The Comptroller General of the Republic.
  - g) Natural persons and managers or administrators of legal persons who enter into or guarantee contracts with the State.
  - h) The National Prosecutor, regional prosecutors and deputy prosecutors of the Public Prosecutor's Office.
  - i) The Commanders-in-Chief of the Army, Navy and Air Force, the Director General of the Carabineros, the Director General of the Investigative Police and the Officers belonging to the Armed Forces and the Public Order and Security Forces.
  - j) The members of the Board of Directors of the Transparency Council.
  - k) The members of the Board of Directors of the Electoral Service.
2. The disqualifications established in this article shall be applicable to those who have held the aforementioned qualities or positions within the six months immediately prior to the election. However, the persons mentioned in paragraph g) shall not have to meet these conditions at the time of registering their candidacy, and in the case of those mentioned in paragraphs h) and i) the term of the disqualification shall be two years immediately preceding the election.
3. If the persons listed in this article are not elected in the election, they may not return to the same position or be appointed to positions similar to those they held until one year after the election. Persons holding an executive office of a trade union or neighbourhood nature shall suspend such functions from the time of registration of their candidatures until the day of the election.

**Article 70**

1. The offices of Deputies and Senators are incompatible with each other and with any employment or commission remunerated with funds from the Treasury, municipalities, autonomous fiscal entities, semi-fiscal entities or State enterprises or those in which the Treasury is involved through capital contributions, and with any other function or commission of the same nature. Exceptions are made for teaching jobs and functions or commissions of the same nature in higher, secondary and special education.
2. Likewise, the positions of deputies and senators are incompatible with the functions of directors or advisors, even if they are ad honorem, in autonomous fiscal entities, semi-fiscal entities or in state enterprises, or in those in which the State has a capital participation, and in management positions of a trade union or neighbourhood nature.
3. By the sole fact of his or her proclamation by the Tribunal Calificador de Elecciones, the deputy or senator shall cease to hold any other incompatible office, employment or commission that he or she may hold.

**Article 71**

1. No deputy or senator, from the moment of his or her proclamation by the Tribunal Calificador de Elecciones, may be appointed to any of the jobs, functions or commissions referred to in the previous article.
2. This provision does not apply in the event of foreign war; nor does it apply to the offices of President of the Republic, Minister of State and diplomatic agent; but only offices conferred in a state of war are compatible with the functions of deputy or senator.

**Article 72**

1. A Deputy or Senator who is absent from the country for more than thirty days without the permission of the House to which he belongs or, in recess, of its President, shall cease to hold office.
2. Any Member of Parliament or Senator who, during his or her term of office, enters into or guarantees contracts with the State, or who acts as a procurator or agent in private administrative transactions, in the provision of public employment, advisory services, functions or commissions of a similar nature,



shall cease to hold office. The same penalty shall be incurred by anyone who accepts to be a director of a bank or of a public limited company, or to hold positions of similar importance in these activities.

3. The disqualification referred to in the preceding paragraph shall apply whether the Deputy or Senator acts alone or through an intermediary, natural or legal person, or through a partnership of which he or she is a member.

4. Any Member of Parliament or Senator who acts or intervenes in any way, on his or her own behalf or on behalf of another natural or legal person, in legal proceedings of any kind shall cease to hold office, unless he or she has been directly affected or offended, or has been affected or offended by relatives as determined by law. Anyone who exercises any influence before the administrative or judicial authorities in favour of or on behalf of the employer or workers in negotiations or labour disputes, whether in the public or private sector, or who intervenes in them before any of the parties, shall also cease to do so. The same penalty shall apply to any Member of Parliament who acts or intervenes in student activities, whatever the branch of education, with the aim of undermining their normal development.

5. Any Member of Parliament or Senator who, either orally or in writing, incites a breach of public order or promotes a change in the institutional legal order by violent means, or who seriously jeopardises the security or honour of the Nation, shall also be relieved of his or her duties.

6. Whoever loses the office of deputy or senator for any of the above-mentioned reasons shall not be eligible for any public function or employment, whether or not it is popularly elected, for a period of two years.

7. A deputy or senator who has seriously infringed the rules on transparency, limits and control of electoral expenditure shall be removed from office from the date on which the Tribunal Calificador de Elecciones, at the request of the Consejo Directivo del Servicio Electoral, declares it by final judgement. An electoral law shall indicate the cases in which a serious infringement exists. Likewise, the A deputy or senator who loses office shall not be eligible for any public function or employment for a period of three years, nor may he or she be a candidate for elected office in the two electoral events immediately following his or her cessation of office.

8. A Deputy or Senator shall also cease to hold office if, during his or her term of office, he or she loses any of the general eligibility requirements or incurs any of the grounds for disqualification referred to in this Constitution, without prejudice to the exception provided for Ministers of State.

9. Deputies and senators may resign from office when they are affected by a serious illness that prevents them from holding office and the Tribunal Calificador de Elecciones so determines.

10. A deputy or senator who resigns from the political party which declared his or her candidacy shall cease to hold office.

11. A deputy or senator who is sanctioned by expulsion from the political party in accordance with the provisions of the law, and after a fair and rational procedure, shall also cease to hold office.

12. A deputy or senator-elect who, from the day of his or her election, is guilty of any of the offences referred to in the two preceding paragraphs shall be disqualified from taking the oath of office.

13. The Tribunal Calificador de Elecciones shall be responsible for hearing and resolving these grounds for cessation.

### **Article 73**

1. Deputies and senators are inviolable only for the opinions they express and the votes they cast in the performance of their duties, in chamber or committee sessions.

2. No Deputy or Senator, from the day of his election or from the day of his swearing in, as the case may be, may be charged or deprived of his liberty, except in the case of flagrante delicto, unless the Court of Appeal of the respective jurisdiction, sitting in plenary session, previously authorises the indictment by declaring a case to have been brought. An appeal may be lodged with the Supreme Court against the decisions of the courts in this respect.

3. In the event of the arrest of a Member of Parliament or Senator for flagrante delicto, he or she shall be immediately brought before the respective Court of Appeal, with the corresponding summary information. The Court shall then proceed in accordance with the provisions of the preceding paragraph.

4. As soon as a final decision declares that a case has been brought, the accused deputy or senator shall be suspended from his or her office and shall be subject to the competent judge.

### **Article 74**

Deputies and Senators shall receive as their sole income an allowance equivalent to the remuneration of a Minister of State.

**Article 75**

Deputies and Senators shall observe impeccable parliamentary conduct, mutual respect, and honest and loyal performance of their duties, with the general interest prevailing over the private interest.

**Subjects of law****Article 76**

They are only matters of law:

- a) Those which are subject to codification, whether civil, commercial, procedural, criminal or other.
- b) Basic matters relating to labour, trade union, social security and social security law.
- c) Those which the Constitution requires to be regulated by law.
- d) Other laws that the Constitution designates as laws of exclusive initiative of the President of the Republic.
- e) Those establishing or modifying the political and administrative division of the country.
- f) Those granting general pardons and amnesties and those establishing the general rules under which the power of the President of the Republic to grant special pardons and pensions of grace must be exercised. Laws granting general pardons and amnesties shall always require a qualified *quorum*. However, this *quorum* shall be two thirds of the deputies and senators in office in the case of the offences referred to in Article 20(1)(c).
- g) Those laying down the bases for the procedures governing the acts of the public administration.
- h) Those authorising the State, its agencies, regional governments and municipalities to contract loans, which must be destined to finance specific projects. The law must indicate the sources of resources from which the debt service is to be made. However, a law with a qualified *quorum shall be* required to authorise the contracting of those loans whose maturity exceeds the term of the respective presidential term. The provisions of this subparagraph shall not apply to the Central Bank.
- i) Those authorising the conclusion of any kind of operations that may directly or indirectly compromise the credit or financial liability of the State, its agencies, regional governments and municipalities. This provision shall not apply to the Central Bank.
- j) Those which establish the rules under which State enterprises and those in which the State has a shareholding may contract loans, which in no case may be made with the State, its bodies or enterprises.
- k) Those indicating the value, type and denomination of coins and the system of weights and measures.
- l) Those which lay down the rules on the alienation of State or municipal property and on its lease or concession.
- m) Those that indicate the city where the President of the Republic must reside, where the National Congress must hold its sessions and where the Supreme Court and the Constitutional Court must function.
- n) Those modifying the form or characteristics of national emblems. ñ) Those regulating public honours for great servants.
- o) Those which fix the air, sea and land forces to be maintained on foot in time of peace or war, and the rules for permitting the entry of foreign troops into the territory of the Republic, as well as the departure of national troops from it.
- p) Those authorising the declaration of war, on the proposal of the President of the Republic.
- q) Those regulating the operation of lotteries, racetracks and betting in general.
- r) Those that limit or restrict the fundamental rights and freedoms established in this Constitution.
- s) Any other rule of a general and binding nature which lays down the essential foundations of a legal system.

**Article 77**

1. The President of the Republic may request authorisation from the National Congress to issue provisions having the force of law for a period not exceeding one year on matters falling within the domain of the law.
2. This authorisation may not extend to nationality, citizenship, elections, plebiscites or referendums, nor to matters which are directly linked to fundamental rights and freedoms or which must be the subject of institutional laws or qualified *quorum*.
3. The authorisation may not include powers affecting the organisation, powers and status of the officials of the Judiciary, the National Congress, the Constitutional Court or the Office of the Comptroller General of the Republic.

4. The law granting such authorisation shall specify the precise matters to be delegated and may establish or determine such limitations, restrictions and formalities as may be deemed appropriate.
5. Likewise, the President of the Republic may, within the first three months after taking office, issue provisions with the force of law that modify the number and denomination of ministries and the dependence of their public services. In no case may this entail a reduction in the number of civil servants, a reduction in their rights or remuneration, a change in their direct hierarchical dependence, an increase in public expenditure, or an increase in the number of ministries established by law.
6. The Office of the Comptroller General of the Republic shall be responsible for taking cognizance of these decrees with force of law, and shall reject them when they exceed or contravene the aforementioned authorisation.
7. Decrees having the force of law shall be subject, as regards their publication, validity and effects, to the same rules as those governing the law.
8. Without prejudice to the provisions of the preceding paragraphs, the President of the Republic is authorised to establish the consolidated, coordinated and systematised text of the laws when it is appropriate for their better execution. In the exercise of this power, he may make such changes in its form as may be necessary, without altering in any way its true meaning and scope.

## **Law formation**

### **Article 78**

1. Laws may originate in the Chamber of Deputies and Deputies or in the Senate, by message from the President of the Republic or by motion of any of its members. Motions may not be signed by more than ten deputies or more than five senators.
2. Messages from the President of the Republic shall be signed by the Minister concerned and may also be signed by no more than ten deputies or five senators.
3. The President of the Republic may submit to the consideration of the respective committees of both Houses the main ideas of a message that has not yet been processed. The committees shall draw up a joint report which shall make recommendations, within sixty days and after a period of public hearings.
4. Laws on taxes of any nature whatsoever, on the budgets of the Public Administration and on conscription may originate only in the Chamber of Deputies. Laws on amnesty, on general pardons, on regional and local government and administration, municipalities, and on political and administrative division may originate only in the Senate.
5. Bills, such as the fixing of minimum salaries or remuneration of personnel in the service of the Public Administration and others of a similar nature that are periodically processed in the National Congress, as well as codification bills, shall be reported on by a bicameral commission and voted on in the chambers of the Chambers according to the procedure established by the institutional law of the National Congress. The same procedure may be followed for messages of easy dispatch or of manifest urgency when so agreed by two thirds of the members of the Chamber of origin.

### **Article 79**

1. The institutional law of the National Congress shall determine the information that must accompany the entry of messages and motions, which, in any case, must include a regulatory impact report and a fiscal expenditure report, when appropriate.
2. Unless unanimously agreed otherwise by the respective committee or Chamber, the Minister in charge shall attend the session of the respective committee in which the study of a message or sponsored motion on a matter corresponding to his or her ministry is initiated, as well as the session of the chamber when such a bill is on the table to be voted on. In the event of nonappearance, the sanction established in the institutional law of the National Congress shall be applied.

### **Article 80**

1. The President of the Republic shall be exclusively responsible for initiating bills relating to the alteration of the political or administrative division of the country, or to the financial or budgetary administration of the State, including amendments to the Budget Law, and to the matters referred to in Article 76(l) and (o).
2. The President of the Republic shall also have the exclusive initiative to:
  - a) Impose, abolish, reduce or remit taxes of any kind or nature, establish exemptions or modify existing ones, and determine their form, proportionality or progression.
  - b) Create new public services or paid jobs, whether fiscal, semi-fiscal, autonomous or State enterprises; abolish them and determine their functions or attributions.

c) To contract loans or enter into any other type of operation that may compromise the credit or financial responsibility of the State, semi-fiscal, autonomous, regional governments or municipalities, and to condone, reduce or modify obligations, interest or other financial charges of any nature established in favour of the Treasury or the aforementioned bodies or entities.

d) To fix, modify, grant or increase remunerations, retirements, pensions, annuities, annuities and any other kind of emoluments, loans or benefits to serving or retired personnel and to the beneficiaries of annuities, as the case may be, of the State Administration and other bodies and entities mentioned above, with the exception of the positions indicated in Article 109, as well as to establish holidays, fix the minimum remunerations of workers in the private sector, compulsorily increase their remunerations and other economic benefits or alter the bases on which they are determined; all without prejudice to the provisions of the following paragraphs.

e) Establish or amend rules on or affecting social security in both the public and private sectors.

f) Establishing the modalities and procedures for collective bargaining of civil servants and limitations on strike action.

3. The National Congress may only accept, diminish or reject the services, jobs, emoluments, loans, benefits, direct expenses and other initiatives on the matter proposed by the President of the Republic.

4. Motions and indications that deal with matters of exclusive initiative of the President of the Republic shall be declared inadmissible by the presiding officer of the respective Chamber or by whoever chairman of the committee, as the case may be. Such a declaration may be amended only by the affirmative votes of four sevenths of the current members of the relevant chamber or committee.

5. Motions and indications declared inadmissible shall be reported to the President of the Republic through the ministry responsible for relations with the National Congress, who may, within a maximum period of thirty days, grant its sponsorship so that they may continue to be processed.

6. No new expenditure from the funds of the Nation may be approved by Congress, in the processing of the draft Budget Law or in any other initiative, without indicating, at the same time, the sources of resources necessary to meet such expenditure.

#### **Article 81**

1. Legal rules interpreting constitutional precepts shall require, for their adoption, amendment or repeal, the same *quorum* as is required for the adoption of a constitutional amendment.

2. The legal norms to which the Constitution confers the character of electoral law or which develop the public electoral system, or the electoral systems applicable to popularly elected posts, or matters concerning political parties, shall require for their approval, modification or repeal the affirmative vote of four-sevenths of the deputies and senators in office.

3. Legislation to which the Constitution confers the status of institutional law or qualified *quorum shall* be adopted, amended or repealed by a majority of the deputies and senators in office.

4. Other legislation shall require a majority of the members of each House present, or such majorities as may be applicable in accordance with Article 83 et seq.

#### **Article 82**

1. The draft Budget Law shall be submitted by the President of the Republic to the National Congress no later than 15 September of each year; and if Congress fails to dispatch it within ninety days of its submission, the draft submitted by the President of the Republic shall be in force.

2. The National Congress may neither increase nor decrease the estimate of revenue; it may only reduce the expenditure contained in the draft Budget Law, except for those established by permanent law.

3. The Budget Law may amend permanent laws only when such amendments affect the manner of executing expenditures established by the law itself or contain scope or limitations on the use of public resources.

4. The estimation of the yield of the resources consulted in the Budget Law and of the new resources established by any other legislative initiative shall be the exclusive responsibility of the President of the Republic, following a report by the respective technical bodies.

5. If the source of resources granted by the National Congress is insufficient to finance any new expenditure approved, the President of the Republic, on promulgating the law, shall, following a favourable report from the service or institution through which the new revenue is collected, endorsed by the Office of the Comptroller General of the Republic, proportionately reduce all expenditure, whatever its nature.

#### **Article 83**

A bill which has been rejected in general in the House of origin may only be renewed after one year. However, the President of the Republic may, in the case of a bill of his own initiative, request that the

message be passed to the other House and, if the latter approves it in general by a two-thirds majority of its members present, it shall be returned to the House of origin and shall not be deemed to have been rejected unless that House rejects it by a two-thirds majority of its members present.

**Article 84**

1. All bills may be subject to additions or corrections in the corresponding procedures, both in the Chamber of Deputies and Deputies and in the Senate; but in no case shall those not directly related to the main or fundamental ideas of the bill be admitted.
2. The President of the Republic may delegate to one or more ministers the power to make such additions or corrections, which shall be signed by order of the President of the Republic.
3. Once a bill has been passed in the House of origin, it shall immediately pass to the other House for discussion.

**Article 85**

1. A bill which is rejected in its entirety by the revising Chamber shall be considered by a joint committee of an equal number of Deputies and Senators, which shall propose the form and manner of resolving the difficulties. The draft of the joint committee shall return to the Chamber of origin, and a majority of the members present in each Chamber shall be required for it to be approved by both the latter and the revising Chamber.
2. If the joint committee does not reach agreement, or if the House of origin rejects the bill of that committee, the President of the Republic may request that House to decide whether to insist, by two-thirds of its members present, on the bill it approved in the first procedure. Once the insistence has been agreed, the bill shall pass a second time to the House that rejected it, and it shall only be deemed to be rejected if two-thirds of its members present are present.

**Article 86**

1. A Bill which has been added to or amended by the revising House shall be referred back to the House of origin, and in that House the additions and amendments shall be deemed to have been adopted with the corresponding *quorum*.
2. If the additions or amendments are rejected, a joint committee shall be formed and shall proceed in the same manner as indicated in the preceding Article. In the event that no agreement is reached in the joint committee to resolve the differences between the two Houses, or if either House rejects the proposal of the joint committee, the President of the Republic may request the House of origin to reconsider the bill approved in the second reading by the revising House. If the House of origin rejects the additions or modifications by two-thirds of its members present, there shall be no law in that part or in its entirety; but if there is a majority for rejection of less than two-thirds, the Bill shall pass to the revising House, and shall be deemed to have been passed with the assent of two-thirds of the members present in the latter House.

**Article 87**

Once a bill has been approved by both Houses, it shall be sent to the President of the Republic, indicating its authors, whether it corresponds to an international treaty or to a constitutional reform, or whether it contains matters of his exclusive initiative. If the President also approves it, he shall enact it into law.

**Article 88**

1. If the President of the Republic disapproves the bill, he shall return it to the Chamber of origin with appropriate observations within thirty days.
2. In no case shall additional observations that are not directly related to the main or fundamental ideas of the draft be admitted, unless they have been considered in the respective message. Suppressive and substitutive observations shall always be admissible.
3. The Houses shall approve the observations by a majority and, if they do so, the bill shall have the force of law and shall be returned to the President of the Republic for promulgation.
4. If the two Houses reject all or some of the observations and insist by two thirds of their members present on all or part of the draft approved by them, it shall be returned to the President of the Republic for promulgation.
5. However, where appropriate, the *quorum* specified in Article 81 shall be observed.

**Article 89**

1. The President of the Republic may declare the urgency of a bill, in one or all of its procedures, and in such a case, the respective Chamber shall discuss the bill and issue its opinion within the time limits established by the institutional law of the National Congress, which in no case may exceed sixty days.

2. The determination of the time limit shall be made, at the proposal of the President of the Republic, by the Chamber in which the draft law is submitted, in accordance with the institutional law of the National Congress.
3. However, either House may decide that the period of urgency of a bill shall be suspended while two or more urgent bills are pending in the committee which is to report on it.
4. Failure to comply with the urgency will generate the sanctions, including pecuniary sanctions, established by law, which will fall on the presidents of the commission or corporation that should have put the bill to discussion or vote, as appropriate.

#### **Article 90**

On 1 June of each year, the President of the Republic shall inform the country of up to three bills that will form part of the priority legislative agenda, which must be put to the vote and complete their legislative processing within a maximum period of one year from the date the priority agenda is informed. The way in which they are processed and the deadlines for each procedure shall be agreed upon by the Presidents of the Chambers and of the committees corresponding to each bill. In the event of non-compliance with the deadlines agreed for its dispatch by the committees, the bill shall be put to the vote in the corresponding chamber in its latest version, without it being possible for the latter to hear or vote on any other bill.

#### **Article 91**

1. If the President of the Republic does not return the bill within thirty days from the date of its referral, it shall be deemed to be approved and shall be promulgated as law.
2. The promulgation shall always be made within ten days of its promulgation. The promulgating decree may be signed by one or more of the Members of Parliament who signed the message or motion.
3. The publication shall be made within five working days of the date on which the promulgating decree is fully processed.
4. Once the law has been published, no court may hear actions or appeals based on any formal defects that may have arisen during the processing of the draft law.

## **CHAPTER V GOVERNMENT AND STATE ADMINISTRATION**

### **President of the Republic**

#### **Article 92**

1. The government and administration of the State are vested in the President of the Republic, who is the Head of State and Head of Government.
2. Its authority extends to everything that has as its object the preservation of public order in the interior and the external security of the Republic, in accordance with the Constitution and the laws.
3. On 1 June of each year, the President of the Republic shall give an account of the administrative and political state of the Nation to the Plenary Congress.

#### **Article 93**

1. To be elected President of the Republic, one must be a Chilean national according to the provisions of Article 17, paragraph 1, subparagraphs a) or b), and have reached the age of thirty five years. years of age and possess the other qualifications required to be a citizen with the right to vote, in accordance with this Constitution.
2. The President of the Republic shall hold office for a term of four years and may not be reelected for the immediately following term. However, a person may hold the office of President of the Republic only twice.
3. The President of the Republic may not leave the national territory for more than thirty days, nor from the day referred to in paragraph 1 of the following Article, without the consent of the Senate.
4. In any case, the President of the Republic shall inform the Senate, with due notice, of his decision to leave the territory and the reasons for it.

#### **Article 94**

1. The President of the Republic shall be elected by direct ballot and by an absolute majority of the votes validly cast. The election shall be held in the manner determined by the respective law, on the third Sunday in November of the year preceding that in which the incumbent is due to leave office.
2. If more than two candidates stand for election as President of the Republic and none of them obtains more than half of the votes validly cast, a second ballot shall be held between the candidates who have

obtained the two highest majorities, and the candidate who obtains the highest number of votes shall be elected. This new ballot shall be held, in the manner determined by law, on the fourth Sunday after the first ballot, and shall be held together with the corresponding ballot for Members of Parliament.

3. For the purposes of the provisions of the two preceding paragraphs, blank and invalid votes shall be considered as not having been cast.

**Article 95**

1. In the event of the death of one or both of the candidates referred to in paragraph 2 of the foregoing Article, the President of the Republic shall call a new election within ten days of the date of death. The election shall be held ninety days after the convocation if that day falls on a Sunday. Otherwise, it shall be held on the Sunday immediately following.

2. If the term of office of the incumbent President of the Republic expires before the date of the inauguration of the President to be elected in accordance with the preceding subparagraph, the rule contained in Article 97 shall apply as appropriate.

**Article 96**

1. The qualification process of the presidential election shall be completed within fifteen days for the first ballot or within thirty days for the second ballot.

2. The Tribunal Calificador de Elecciones shall immediately inform the President of the Senate and the President of the Chamber of Deputies of the proclamation of the President-elect that it has made.

3. The Plenary Congress, meeting in public session on the day on which the incumbent President is due to leave office and with the members in attendance, shall take cognizance of the resolution by which the Tribunal Calificador de Elecciones proclaims the President-elect.

4. At the same time, the President-elect shall take an oath or promise before the President of the Senate to faithfully perform the duties of President of the Republic, to preserve the independence of the Nation, to uphold the Constitution and the laws, and shall immediately assume his or her duties.

**Article 97**

1. If the President-elect is unable to take office, the President of the Senate shall, in the meantime, assume the title of Vice-President of the Republic; in the absence of the latter, the President of the Chamber of Deputies, and in the absence of the former, the President of the Supreme Court.

2. However, if the impediment of the President-elect is absolute or is to last indefinitely, the Vice-President shall, within ten days following the resolution of the Senate adopted in accordance with article 60(g), call a new Presidential election to be held ninety days after the convocation if that day falls on a Sunday. Otherwise, it shall be held on the Sunday immediately following. The President of the Republic thus elected shall take office ten days after the qualification of the election and shall remain in office until the day on which it would have been incumbent upon the President-elect who was unable to take office and whose impediment had led to the new election.

**Article 98**

If the President of the Republic is temporarily unable to exercise his office due to illness, absence from the territory or other serious reason, he shall be deputised, with the title of Vice-President of the Republic, by the incumbent Minister who corresponds to him in accordance with the order of legal precedence. In the absence of the latter, the incumbent Minister who follows in that order of precedence shall deputise, and in the absence of all of them, the President of the Senate, the President of the Chamber of Deputies and Deputies and the President of the Supreme Court shall successively deputise.

**Article 99**

1. In the event of vacancy of the office of the President of the Republic, subrogation shall take place as in the situations of the preceding Article, and a successor shall be elected in accordance with the rules of the following paragraphs.

2. If the vacancy occurs less than two years before the next presidential election, the President shall be elected by the Plenary Congress, by an absolute majority of the Senators and Deputies in office. The election by Congress shall be made within ten days of the date of vacancy and the elected President shall take office within thirty days thereafter.

3. If the vacancy occurs two years or more before the next Presidential election, the Vice-President referred to in the previous Article shall, within the first ten days of his term of office, call the citizens to a Presidential election one hundred and twenty days after the call, if that day falls on a Sunday. If this is not the case, the election shall be held on the Sunday immediately following. The President who is elected shall take office on the tenth day after his proclamation.

4. The President elected in accordance with one of the preceding paragraphs shall remain in office for the remainder of the term of office of the person being replaced and may not stand as a candidate in the next presidential election, and the provisions of Article 93(2) shall apply to him or her.

#### **Article 100**

1. The President of the Republic shall cease to hold office on the day on which his term is completed and shall be succeeded by the newly elected President.

2. The person who has held this office for the full term shall immediately and by right assume the official dignity of former President of the Republic.

3. By virtue of this status, the provisions of Articles 73(2), (3) and (4) and 74 shall apply to him.

4. It shall not apply to a citizen who becomes President of the Republic as a result of a vacancy in the office of President of the Republic, nor to anyone who has been found guilty in an impeachment trial against him/her.

5. The former President of the Republic who assumes any function remunerated with public funds shall cease to receive the per diem allowance for as long as he/she performs it, maintaining, in any case, the privilege. Exceptions are made for teaching jobs and functions or commissions of the same nature in higher, secondary and special education.

#### **Article 101**

The President appointed by the Plenary Congress or, as the case may be, the Vice-President of the Republic shall have all the powers conferred on the President of the Republic by this Constitution.

#### **Article 102**

These are special powers of the President of the Republic:

a) Appoint ambassadors, heads of diplomatic missions and representatives to international organisations. These officials, for the duration of their appointment, shall have the exclusive confidence of the President of the Republic and shall remain in their posts for as long as they hold such confidence.

b) Appoint the judicial magistrates and prosecutors of the Supreme Court and the Courts of Appeal, and the judges with legal standing, in accordance with the procedure laid down in Article 159(2) of this Constitution.

c) Appoint the members of the Constitutional Court, the National Prosecutor and the Comptroller General of the Republic, as prescribed in this Constitution.

d) Appoint and remove the commanders-in-chief of the army, navy and air force in accordance with Article 117, and provide for the appointments, promotions and retirements of officers of the armed forces in accordance with Article 116.

e) Appoint and remove the General Director of the Carabineros de Chile and the General Director of the Investigative Police of Chile in accordance with Article 119, and make appointments, promotions and retirements of Carabineros and police officers in the manner set out in Article 120.

f) Appoint and remove at will the ministers of state, undersecretaries, his representative in each of the regions and provinces, and the officials that the law designates as having his exclusive confidence, and to fill other civilian posts in accordance with the law. The removal of other officials shall be carried out in accordance with the provisions determined therein.

g) To concur in the formation of laws in accordance with the Constitution, to sanction them and to promulgate them.

h) Request, stating the reasons, that any of the branches of the National Congress be summoned to a session. In such a case, the session shall be held as soon as possible.

i) To issue, after delegation of powers by Congress, decrees with the force of law on the matters indicated in the Constitution.

j) Call referendums and plebiscites in the cases established in this Constitution.

k) Declare states of constitutional emergency in the cases and in the forms set out in this Constitution.

l) Issue such regulations, decrees and instructions as it deems appropriate for the execution and implementation of the laws.

m) Grant retirements, pensions, annuities and pensions of grace, in accordance with the law.

n) To conduct political relations with other nations and international organisations and to conduct negotiations; to conclude, sign and ratify such treaties as it deems advisable for the interests of the country, which shall be submitted to Congress for approval in accordance with the provisions of Article 61, requiring also, and in any case, the approval of Congress to denounce, withdraw from or terminate by common consent an international treaty which has already been approved by Congress. Discussions and deliberations on these matters may be declared reserved or secret if the President of the Republic so requires.



- ñ) To dispose of, organise and distribute air, sea and land forces in accordance with the needs of the security of the Nation.
- o) Conduct national defence and assume, in the event of war, the supreme command of the Armed Forces.
- p) Declare war, subject to authorisation by law.
- q) To oversee the collection of public revenues and to decree their investment in accordance with the law. The President of the Republic, with the signature of all the Ministers of State, may decree payments not authorised by law, to meet urgent needs arising from public calamities, external aggression, internal commotion, serious damage or danger to the security of the Nation or the exhaustion of resources destined to maintain services that cannot be paralysed without serious harm to the country. The total of the appropriations to be drawn for these purposes may not exceed annually two per cent of the amount of expenditure authorised by the Budget Act. Employees may be hired under this same law, but the respective item may not be increased or decreased by means of transfers. Ministers of State or officials who authorise or authorise expenditure in contravention of the provisions of this subparagraph shall be jointly and severally and personally liable for their reimbursement, and shall be guilty of the offence of misappropriation of public funds.
- r) To provide, by means of a well-founded supreme decree, signed by the ministers in charge of Public Security and National Defence, that the Armed Forces shall take charge of the protection of the country's critical infrastructure when there is serious or imminent danger to it, determining the infrastructure that must be protected, in accordance with the provisions of Article 122.

## **Ministers of State**

### **Article 103**

1. The Ministers of State are the direct and immediate collaborators of the President of the Republic in the government and administration of the State.
2. The law shall determine the number and organisation of the ministries, as well as the order of precedence of the incumbent ministers. The foregoing is without prejudice to the provisions of Article 77(5).

### **Article 104**

1. In order to be appointed Minister, one must be a Chilean national, be at least twenty-one years of age and meet the general requirements for entry into the Public Administration.
2. In cases of absence, impediment or resignation of a Minister, or when the office is otherwise vacant, he or she shall be replaced in the manner prescribed by law.

### **Article 105**

1. Regulations, decrees and instructions of the President of the Republic shall be signed by the respective Minister and shall not be obeyed without this essential requirement.
2. Decrees and instructions may be issued with the sole signature of the respective Minister, by order of the President of the Republic, in accordance with the rules established by law for this purpose.

### **Article 106**

Ministers shall be individually responsible for the acts they sign and jointly and severally liable for those they sign or agree with other ministers.

### **Article 107**

1. Ministers may attend sessions of the Chamber of Deputies and Deputies or of the Senate and take part in their debates, with preferential right to speak, but without the right to vote. During the vote, they may, however, rectify the views expressed by any Deputy or Senator in support of their vote.
2. Without prejudice to the foregoing, Ministers shall attend in person the special sessions convened by the Chamber of Deputies and the Senate to report on matters which, falling within the scope of the powers of the corresponding Secretaries of State, they agree to deal with, and any other matters established by the Constitution.

### **Article 108**

1. The office of Minister of State is incompatible with any other office, employment or commission paid from public or private funds. An exception is made for teaching posts as provided for by law. By the mere fact of accepting the appointment, the Minister shall cease to hold the incompatible office, employment, function or commission that he/she holds.
2. During their term of office, ministers shall be prohibited from entering into or guaranteeing contracts with the State, from acting as attorneys or agents in any kind of lawsuit or as procurator or agent in

private administrative proceedings, from being a director of banks or of any public limited company, and from holding positions of similar importance in these activities.

#### **Article 109**

1. The remuneration of the President of the Republic, of the Senators and Deputies, of the regional governors and other officials of exclusive trust as determined by law, shall be fixed by a commission whose composition and powers shall be determined by an institutional law. Its members shall be appointed by the President of the Republic with the agreement of three-fifths of the Senators in office.
2. The commission's resolutions shall be public, based on technical background and shall establish a remuneration that guarantees a remuneration appropriate to the responsibility of the position and the independence to fulfil its functions and powers.

### **General Bases of the State Administration**

#### **Article 110**

1. The State Administration is at the service of people and society. By virtue of the powers conferred on it by the legal system, it shall approve, execute and control the public policies, plans, programmes and actions that, in accordance with the Constitution and the law, fall within its competence. It shall also provide or guarantee, where appropriate, the continuous and permanent provision of public services, ensuring the quality of the service at all times.
2. The purpose of the State Administration shall be to promote the general interest by meeting public needs through the exercise of the powers conferred on it by the Constitution and the law.
3. The organs of the State Administration shall observe the principles established by the Constitution and the law. They shall act in a timely, collaborative and coordinated manner, based on the applicable scientific and technical evidence, with the available resources. In addition, they shall strive for regulatory efficiency and coherence in the regulatory norms they issue within the framework of their attributions. They shall also promote the modernisation of their processes and organisation, through the use of new tools and technologies that guarantee universal access to them.
4. The State Administration is made up of public officials appointed to occupy a job or position remunerated with State resources, including those who hold positions of public management in the national, regional and local administration, who for all purposes shall exercise administrative functions. The foregoing is without prejudice to the functions of government and the general management of the State, of the State Administration and of the definition of public policies that correspond to the Government headed by the President of the Republic and composed of those who are appointed to exercise positions of exclusive trust, qualified as such by this Constitution or the law, in view of the nature of their functions.

#### **Article 111**

1. The institutional law shall establish the general bases of the State Administration. The basic structure of each body shall be determined by law, without prejudice to the powers of internal organisation of each service.
2. The heads of service of State bodies may always establish the internal organisation of their services and determine the names and functions corresponding to each of the units established for the fulfilment of the functions assigned by law, respecting the Constitution.

#### **Article 112**

1. The law shall establish a general civil service regime, based on a public selection system, of free and equal access, competitive, inclusive, non-discriminatory, transparent, impartial, agile, that favours the merit of the applicants, and the speciality and suitability for the position, observing objective and predetermined criteria.
2. The law shall establish the principles of a technical and professional nature of this regime, the rules on stability in office or employment, the rights and duties of civil servants, the continuous improvement of its members, the processes of mobility within and between State bodies, and shall guarantee the continuity of the public service.
3. The systems of entry, promotion and termination of these functions and jobs, with the exceptions indicated, shall be geared to the proper performance of the public service and shall respect the technical and professional nature of these functions and jobs.

#### **Article 113**

1. An institutional law may create functionally autonomous or independent technical public services, whatever they may be called.

2. The same institutional law shall establish the necessary measures to ensure their greater independence. This law shall regulate at least

a) The appointment of its head of service or of those who make up its governing body by means of a system of public competition determined by law. In the appointment process, the respective institutional law may determine the concurrence of the President of the Republic or of another State body.

b) The objective and specific grounds for termination of the position of head of service or of those who are members of management bodies.

c) The establishment of accountability mechanisms.

d) The establishment of specific restrictions and prohibitions applicable for a defined period of time to those who leave as head of service or those who are members of management bodies.

e) The regulation of its organisation and basic functioning, its attributions, the statute and management of its personnel and remuneration system, as well as the determination of the instruments necessary for the due fulfilment of its functions, safeguarding the necessary independence or technical and managerial autonomy.

3. The provisions governing the State administration shall be applicable to autonomous or independent public services, whatever their denomination.

#### **Article 114**

1. Any person whose rights or interests are infringed by an organ of the State administration may bring a legal action.

2. The nullity of administrative acts contrary to law may be claimed in the manner and under the conditions established by law. Without prejudice to the exceptions provided for by law, the filing of the action shall not suspend the execution of the contested act except by order of the competent court.

3. Any person who has suffered damages as a result of the lack of service of the bodies of the State Administration, its agencies, including regional governments and municipalities, shall be entitled to compensation, without prejudice to the responsibilities that may affect the civil servant who caused the damage. The law may establish, in well-founded cases, other grounds for imputation other than the lack of service.

### **Armed Forces**

#### **Article 115**

1. The Armed Forces consist solely and exclusively of the Army, the Navy and the Air Force, and report to the Ministry in charge of National Defence. They are destined to the defence of the sovereignty, independence, security of the Nation and territorial integrity, in accordance with the Constitution and the law.

2. In addition, they assist in national emergencies and disasters, in securing the country's borders and in international cooperation in peace operations under international law, in accordance with the Constitution and the law.

3. The armed forces, as armed bodies, are professional, hierarchical, disciplined and essentially obedient and non-deliberative institutions.

4. Its members in active service may not belong to political parties, join political, trade union or trade union organisations, exercise the right to strike, or run for elected office.

5. The institutional law shall establish the basic rules for the organisation of the Armed Forces, their incorporation into the ranks, their command, succession of command, appointments, promotions and retirements, professional careers, seniority, their pension system and budgets.

#### **Article 116**

1. Entry into the ranks and staffs of the Armed Forces may only be made through their own Schools, with the exception of professional ranks and civilian employees as determined by law.

2. Appointments, promotions and retirements of officers of the Armed Forces shall be made by supreme decree, in accordance with institutional law.

#### **Article 117**

1. The President of the Republic, in his duty to guarantee the external security of the Republic, is the conductor of national defence, exercising his powers in direct and immediate collaboration with the ministry in charge of National Defence, under the terms established by the Constitution and the laws.

2. The President of the Republic shall appoint the Commanders-in-Chief of the Army, Navy and Air Force. They shall be appointed by him from among the five most senior general officers who meet the qualifications required for such posts by the respective institutional statutes; they shall hold office for four years, may not be appointed for a further term and shall be irremovable in office.

3. The President of the Republic, by means of a substantiated supreme decree, may call for the retirement of the commanders-in-chief of the Army, Navy and Air Force, as the case may be, before completing their respective terms of office.

## **Law Enforcement and Public Security**

### **Article 118**

1. The Forces of Order and Public Security consist solely and exclusively of the Carabineros de Chile and the Investigative Police of Chile, and report to the ministry in charge of Public Security. They are intended to give effect to the law, guarantee public order and internal public security, in accordance with the Constitution and the law.

2. In addition, they assist in emergency situations and national disasters, in accordance with the Constitution and the law.

3. They are professional, hierarchical, disciplined and essentially obedient and non-deliberative institutions.

4. Its members in active service may not belong to political parties, join political, trade union or trade union organisations, exercise the right to strike, or run for elected office.

5. The institutional law shall establish the basic rules for the organisation of the Public Order and Security Forces, their incorporation into the ranks and staffing, their leadership, command, succession of command, appointments, promotions and retirements, professional careers, seniority, their welfare and budgets.

### **Article 119**

1. The General Director of the Carabineros de Chile shall be appointed by the President of the Republic from among the five most senior general officers who meet the qualifications determined by law; he shall serve for four years, may not be appointed for a new term and shall be irremovable in his post.

2. The Director General of the Investigative Police of Chile shall be appointed by the President of the Republic from among the eight most senior police officers who meet the qualifications determined by law; he shall hold office for six years, may not be appointed for a further term and shall be irremovable in his post.

3. The President of the Republic, by means of a substantiated supreme decree, may call for the retirement of the General Director of the Carabineros and the General Director of the Investigative Police, as the case may be, before completing their respective terms of office.

### **Article 120**

1. Incorporation into the ranks and staffs of the Carabineros de Chile and the Investigative Police of Chile may only be made through their own Schools, with the exception of the professional ranks and civilian employees as determined by law.

2. Appointments, promotions and retirements of Carabineros and Investigative Police officers shall be made by supreme decree, in accordance with institutional law.

## **General provisions**

### **Article 121**

1. The State has a non-delegable monopoly on the use of force, which shall be exercised through the Armed Forces and the Forces of Order and Public Security, in accordance with this Constitution and the laws.

2. The law shall determine the framework for the use of force that may be used in the exercise of the functions of the institutions authorised by it.

3. No person, group or organisation may possess or hold arms or other similar items specified in the law of qualified *quorum* without authorisation granted in accordance with this law. This law shall determine the ministry or bodies under its authority which shall exercise oversight and control over weapons. It shall also establish the public bodies responsible for overseeing compliance with the rules relating to such control.

### **Article 122**

1. For the purposes of the provisions of paragraph r) of article 102, critical infrastructure includes the set of installations, physical systems or services that are essential and of public utility, as well as those whose affectation would cause serious damage to the health or supply of the population, to essential economic activity, to the environment or to the security of the country. This concept is understood as the infrastructure essential for the generation, transmission, transport, production, storage and

distribution of services and basic inputs for the population, such as energy, gas, water or telecommunications; that relating to road, air, land, maritime, port or railway connections, and that corresponding to public utility services, such as health or health care systems. A law will regulate the obligations to which public bodies and private entities in charge of the country's critical infrastructure will be subject, as well as the specific criteria for their identification.

2. The President of the Republic, through a supreme decree, shall designate a general officer of the Armed Forces who shall have command of the Armed Forces and of the Forces of Order and Public Security arranged for the protection of critical infrastructure in the areas specified in said act. The chiefs designated to command the forces shall be responsible for safeguarding public order in such areas, in accordance with the instructions established by the ministry in charge of Public Security in the supreme decree.

3. The exercise of this power shall not imply the suspension, restriction or limitation of the rights and guarantees enshrined in this Constitution or in international human rights treaties ratified by Chile and in force. Without prejudice to the foregoing, the effects only may be framed within the exercise of the powers to safeguard public order and shall emanate from the powers granted by law to the forces to execute the measure, proceeding exclusively within the territorial limits of protection of the critical infrastructure that are established, subject to the procedures established in the law in force and in the rules for the use of force that are established for this purpose for the fulfilment of the duty.

4. This measure shall be extended for a maximum period of ninety days, without prejudice to its extension for equal periods with the agreement of the National Congress, as long as the serious or imminent danger that gave rise to its exercise persists. The President of the Republic shall report to the National Congress, at the end of each period, on the measures adopted and the effects or consequences of the execution of this power.

5. The aforementioned power may also be used to safeguard areas of the country's border zones, in accordance with the instructions contained in the supreme decree issued by the President of the Republic.

## CHAPTER VI REGIONAL AND LOCAL GOVERNMENT AND ADMINISTRATION

### Article 123

1. The territory of the Republic is organised into regions, provinces, communes and special territories.

2. This organisation shall aim at the harmonious integration and sustainable development of the country, and shall observe the principles of territorial solidarity and equity, territorial relevance, preferential location, coordination and partnership, fiscal responsibility and prohibition of trusteeship.

3. The regional governments and local governments or municipalities have the necessary powers to fully comply with their purposes under the terms established by the Constitution and the law, for which purpose they enjoy legal personality and their own assets, and must collaborate harmoniously to achieve their purposes. The provinces constitute an administrative division of the territory, the authorities of which perform only administrative functions of internal government.

4. The creation, suppression, delimitation and naming of regions, provinces and communes, as well as the establishment of the capitals of regions and provinces, shall be the subject of a law, which shall establish objective criteria, based on historical, social, geographical and cultural background, and shall provide for forms of citizen participation. This law shall be the exclusive initiative of the President of the Republic.

5. However, regions are created, suppressed, merged, divided or delimited on the basis of the physical and environmental characteristics of their territory, their population and social, historical and cultural identity, their capacity to sustain economic and productive processes, and their conditions to provide an adequate supply of public and private services to their inhabitants. For the realisation of such regional criteria, it is recognised that the provinces and communes within a region are complementary to each other.

6. In each region, two or more communes may constitute a metropolitan area in accordance with the requirements and criteria determined by law. This shall determine the authority in charge of the administration of metropolitan areas, its attributions and the form of coordination with the regional government and the municipalities that make it up.

**Article 124**

The State shall promote harmonious integration and sustainable development among the various regional and local governments. The law shall establish mechanisms of solidarity and equity among them, taking into account the circumstances that account for the special characteristics of some areas of the national territory.

**Article 125**

1. The State recognises the heterogeneity of its territory and its various regions and communes. 2. It is the duty of the state to consider these territorial realities in the design and implementation of public policies and in the transfer of competences and resources.

3. The law shall establish mechanisms to respect and promote the rights of indigenous peoples recognised in this Constitution in the regions and communes, and especially in those with a significant presence of indigenous peoples.

**Article 126**

The law shall prioritise the allocation of public functions to local government over regional government and to regional government over national government, without prejudice to those competences that the Constitution or the Constitution itself may provide for. The laws reserve to the national government. Only those functions that cannot be assumed with due effectiveness and efficiency by the local or regional level should fall within the competence of the national government.

**Article 127**

1. State agencies and institutions, at their various levels of government, shall act in a coordinated and collaborative manner to achieve their goals, fostering cooperation and avoiding duplication or interference in their functions. Public services under the national government shall coordinate with the respective regional governments and municipalities, in accordance with the law.

2. The institutional law shall establish formulas for partnership and cooperation between municipalities and regional governments for the purposes common to them and between these entities and public services.

3. The Council of Governors is a coordinating body between the regional governments for the purposes set out in Article 123.

4. The Council of Mayors is a consultative and representative body for all municipalities in the respective region. It shall address their problems, promote effective coordination between the various bodies with a regional presence and encourage effective cooperation between local governments.

5. Institutional law shall regulate the functioning of these councils.

**Article 128**

No level of government may exercise tutelage over another, subject to the application of the principles of coordination, partnership and solidarity. Powers definitively transferred to a regional government or a municipality may not be revoked, except in the case of legal exceptions.

**Article 129**

1. The institutional law shall establish the form and manner in which competences shall be transferred to the regional governments and municipalities, as well as the grounds that enable the national level to exercise them in subsidy. The national level shall be responsible for all those functions that are not expressly assigned, either by the Constitution or by law, to the sphere of competence of the regional governments and municipalities.

2. Regional and local governments may apply to the President of the Republic for the transfer of powers, in accordance with the procedure established by institutional law.

**Regional Government****Article 130**

1. The government and administration of each region is vested in the regional government, consisting of the regional governor and the regional council, the number of members of which shall be established by law. These authorities shall be elected in the region by universal suffrage, in accordance with the Constitution and the electoral law.

2. The regional government is a legal entity under public law with its own assets, whose purpose is the economic, social and cultural development of the region, and which has administrative and financial autonomy for the exercise of its powers.

### **Article 131**

1. The regional government exercises functions of government and administration, regulation, finance, coordination, complementarity with municipal action, intermediation between the national government and the region, and the provision of public services as determined by law and the powers established by law.
2. An institutional law will regulate the powers to be exercised by the regional government and its bodies, considering that their functions include land-use planning, the promotion of participation and productive activities and tourism.
3. The institutional law may authorise regional governments and public enterprises to associate with natural or legal persons for the purpose of promoting non-profit activities and initiatives that contribute to regional development. The entities constituted for this purpose shall be subject to the common rules applicable to private individuals and to the laws that ensure transparency, probity and the proper use of public resources.
4. The regional governments, for the fulfilment of their functions, may create or abolish jobs and fix salaries, as well as establish such bodies or units as the respective institutional law allows. These powers shall be exercised within the limits and requirements which, at the exclusive initiative of the President of the Republic, shall be determined by the institutional law on regional governments.
5. The regional governments are supervised by their own internal control bodies and by the bodies mandated to do so by the Constitution and the law, and are subject to the control and supervision of the Office of the Comptroller General of the Republic in accordance with the law.

### **Article 132**

1. The regional governor shall be the executive body of the regional government, and shall be responsible for presiding over the regional council and exercising the functions and powers determined by institutional law, in coordination with the other public bodies and services created for the fulfilment of the administrative function. Likewise, she shall be responsible for the coordination, supervision and oversight of the public services that depend on or are related to the regional government.
2. The Regional Governor shall be elected by universal suffrage in a direct ballot. He shall be elected whoever obtains a majority of the votes validly cast, provided that such majority is equivalent to at least forty per cent of the votes validly cast, in accordance with the provisions of the electoral law. Otherwise, a second ballot shall be held, which shall be restricted to the candidates who have obtained the two highest relative majorities and in which the candidate who obtains the largest number of votes shall be elected, as determined by the respective electoral law.
3. For the purposes of the provisions of the two preceding paragraphs, blank and invalid votes shall be considered as not having been cast. The Governor shall hold office for a term of four years.

### **Article 133**

1. The Regional Council shall be a collegiate body of a normative, resolute and supervisory nature, whose functions and powers shall be determined by the Constitution and institutional law.
2. The regional council shall be responsible for overseeing the exercise of the powers of the regional government, in accordance with the powers determined by institutional law.
3. The Regional Council shall be responsible for approving the draft budget of the respective region, in accordance with the resources allocated to it in the Budget Law, its own resources and those coming from other sources of income in accordance with the Constitution.
4. The regional council shall be composed of councillors elected by direct universal suffrage, who shall hold office for four years in accordance with the respective electoral law.
5. Members of Parliament representing the constituencies and districts of the respective region may attend meetings of the Regional Council and take part in its debates, without the right to vote.
6. Annually, the regional council will receive senators from the region to report on the passage of laws of regional interest. The institutional law will establish permanent coordination and information mechanisms between the regional government and the senators of the region.

## **Local Government**

### **Article 134**

1. The local government and administration of each commune or grouping of communes determined by law resides in a municipality, which shall consist of the mayor and the municipal council.
2. The municipalities are autonomous corporations under public law, with legal personality and their own assets. They are autonomous in the exercise of their powers and their purpose is to satisfy the needs

of the local community and to ensure its participation in the economic, social and cultural development of the commune.

#### **Article 135**

1. The municipalities have regulatory, financial and supervisory powers of coordination, complementarity with the action of the regional and national government, the provision of public services that depend on them and territorial planning, in harmony with national and regional development policies and plans, and other powers determined by the Constitution and institutional law.
2. The municipalities, for the performance of their functions, may create or abolish jobs and fix remuneration, as well as establish such bodies or units as the respective institutional law permits. These powers shall be exercised within the limits and requirements determined by the institutional law on municipalities, at the exclusive initiative of the President of the Republic.
3. Local governments are audited by their own internal control bodies and by the bodies mandated to do so by the Constitution and the law, and are subject to the control and supervision of the Office of the Comptroller General of the Republic in accordance with the law.
4. The municipalities may associate among themselves in accordance with the respective institutional law, and such associations may have legal personality under private law. Likewise, they may constitute or integrate non-profit corporations or foundations under private law whose purpose is the promotion and dissemination of art, culture and sport, or the promotion of community and productive development works. Municipal participation in them shall be governed by their institutional law. The entities constituted for this purpose shall also be subject to the laws that ensure transparency, probity and proper use of public resources.
- 5 Local governments may establish within the scope of communes or groups of communes, in accordance with the respective institutional law, territories called neighbourhood units, with the aim of promoting sustainable, balanced development and an adequate channelling of citizen participation.

#### **Article 136**

1. The mayor is the highest authority and executive body of local government. He or she is responsible for presiding over the municipal council and exercising the functions and powers determined by institutional law.
2. Mayors shall be elected by universal suffrage in direct voting, in accordance with the rules laid down in the Constitution and the respective electoral law. They shall hold office for a term of four years.
3. The mayors may, in the cases and in the manner determined by institutional law, appoint delegates to exercise their powers in one or more localities.

#### **Article 137**

1. The municipal council is a collegiate body of a normative, resolute and supervisory nature, whose functions are to collaborate in the government and administration of the commune, supervise municipal management, make the participation of the local community effective and those entrusted to it by the Constitution and the law.
2. The institutional law shall determine the matters on which consultation by the mayor or mayoress with the council is mandatory and those on which the council's agreement is necessarily required. In any case, such agreement shall be necessary for the approval of the communal development plan, the municipal budget and the commune's investment projects.
3. The institutional law must establish mechanisms that ensure adequate autonomy for the municipal council in the exercise of its role of oversight of municipal management and the work of the mayor.

#### **Article 138**

1. The municipal council shall be composed of councillors elected by universal suffrage in direct voting, in accordance with the rules established in the Constitution and in the electoral law. Its members shall serve for a term of four years.
2. The institutional law shall establish the rules on the organisation and functioning of the municipal council, the number of councillors who shall comprise it, and the grounds for disqualification, incompatibility, subrogation, cessation and vacancy of the office of councillor.

### **Special territories**

#### **Article 139**

1. Special territories are those corresponding to Rapa Nui and the Juan Fernández Archipelago. The Government and Administration of these territories shall be governed by the special statutes established by the respective institutional laws.



2. The rights to reside, stay and move to and from any part of the Republic, guaranteed in this Constitution, shall be exercised in these special territories in the manner determined by the laws regulating their exercise.

### **Deconcentration of State Administration**

#### **Article 140**

There shall be representatives of the President of the Republic in the various regions and provinces, who shall be appointed by the President of the Republic, whose powers shall be determined by institutional law. The representative of the President of the Republic in the region shall exercise coordination, oversight and supervision of the public bodies created by law for the performance of administrative functions that depend on or relate to the President of the Republic through a Ministry.

### **Fiscal Decentralisation**

#### **Article 141**

1. The State promotes harmonious, equitable and supportive development among the regions and communes of Chile. The Administration and the regional and local governments must contribute to the correction of the inequalities that exist between them, so that all persons and communities have access to the same level and quality of public goods and services, regardless of where they live.

2. There will be mechanisms, instruments and funds to ensure inter-territorial economic compensation in fiscal transfers to sub-national governments. The law shall contemplate, among others, the following mechanisms:

- a) Of baseline funding for regional, municipal entities and special territories.
- b) Solidarity based on territorial equity.
- c) Compensation for negative externalities, aimed at regions and municipalities that suffer environmental or social consequences as a result of the development of certain activities.

#### **Article 142**

The Budget Law should progressively encourage a significant part of public spending to be executed through regional and local governments, in accordance with the responsibilities that each level of government must assume for the adequate fulfilment of its responsibilities, setting annual targets for their effective fulfilment.

#### **Article 143**

1. Any creation, extension or transfer of powers to regional and local governments must provide for technical assistance, personnel and sufficient and timely funding for their proper exercise.

2. Resource transfers and allocations shall be made on the basis of objective and predefined criteria. However, the law may establish special transfers for reasons of isolation or emergency, which in no case may establish arbitrary discrimination or differences between the different regions and territories of the country.

#### **Article 144**

1. The law may authorise the application of surcharges on certain taxes levied on activities or goods of regional or communal identification, within the frameworks established by the same law, by the regional government or the municipality.

2. The law shall define the goods or activities that meet these characteristics. Revenues generated in this way shall be used to finance development and investment works.

3. The law may authorise taxes of a regional or municipal nature to benefit the regions or communes in which the taxpayer carries out its commercial or industrial activity, according to criteria to be determined by law.

#### **Article 145**

Regional and local governments may contract loans, in accordance with the requirements and limits established by the Constitution and the law. The resources obtained in this way must be used to finance specific projects and in no case may they be used to finance current expenditure.

#### **Article 146**

1. National, regional and communal government authorities are responsible for ensuring the proper use of public resources, respecting the principles of sufficiency, co-ordination, budgetary balance, territorial solidarity and equity, sustainability and economic efficiency. The law shall regulate the mechanisms to make fiscal responsibility effective.

2. The law will also include public efficiency indicators and targets associated with the results and impact of the annual budget execution on the improvement of the quality of life of the inhabitants of the regions and communes.

**Article 147**

The Constitutional Court shall resolve, in accordance with this Constitution, any disputes of jurisdiction that may arise between national, regional, provincial and communal authorities.

**General provisions****Article 148**

1. The regulatory power of regional and local governments will always be of infra-legal rank and its application will be in the respective territory, within the scope of their competences.

2. The regional governments may issue such regulations as they deem appropriate for the proper execution of their powers, subject to the provisions of Article 102 (1).

**Article 149**

Elections of mayors, councillors, governors and regional councillors shall be held jointly, every four years, on the last Sunday in April.

**Article 150**

1. To be elected regional governor, regional councillor, mayor or councillor and to be appointed representative of the President of the Republic in the region or province, it shall be necessary to be a citizen with the right to vote, to have the other requirements of suitability that the law establishes, where appropriate, and to have resided in the region for at least the last two years prior to their appointment or election.

2. No regional governor or representative of the President of the Republic in the region or province, as the case may be, may be charged or deprived of his liberty, except in the case of flagrante delicto, if the Court of Appeal of the respective jurisdiction, in plenary session, does not previously authorise the indictment by declaring that the case is admissible. This decision may be appealed before the Supreme Court.

3. If a regional governor or a representative of the President of the Republic in the region or province is arrested for having committed an offence in flagrante delicto, he shall be immediately brought before the respective Court of Appeal, with the corresponding summary information. The Court shall then proceed in accordance with the provisions of the preceding subsection.

4. From the moment that a final decision declares that a case has been brought, the regional governor or the representative of the President of the Republic of the region or province, as the case may be, is suspended from his office and subject to the competent judge.

**Article 151**

1. The respective institutional laws shall establish the grounds for disqualification, incompatibility, cessation, subrogation and vacancy in the offices of regional governor, mayor, regional councillor and councillor.

2. Without prejudice to the foregoing, the aforementioned authorities who have seriously infringed the rules on transparency, limits and control of electoral expenditure shall be removed from their posts, from the date that this is declared by a final judgement of the Tribunal Calificador de Elecciones, at the request of the Consejo Directivo del Servicio Electoral (Board of Directors of the Electoral Service). An electoral law shall indicate the cases in which a serious infringement exists.

3. Likewise, whoever loses the office of regional governor, mayor, regional councillor or councillor, in accordance with the provisions of the previous paragraph, shall not be eligible for any function or employment.

**Article 149**

The person may not stand for public office for a period of three years, nor may he or she be a candidate for elected office in the two electoral events immediately following his or her dismissal.

**Article 152**

1. Regional governors may only be re-elected successively for one term. Regional councillors, mayors and councillors may be re-elected successively for up to two terms.

2. In no case shall non-consecutive terms of office be counted as successive periods for the application of this rule.

3. In order to determine the re-election limit for regional governors, regional councillors, mayors and councillors, they shall be considered to have held office for a term when they have served more than half of their mandate.

## CHAPTER VII JUDICIARY

### **Article 153**

1. The jurisdictional function is the power to hear and resolve conflicts of legal relevance and to enforce what has been judged, a power that lies exclusively with the judges who make up the courts previously established by law.
2. Judges shall be subject to the Constitution and the law and may not in any case exercise the powers of other public authorities.
3. The use of arbitration, mediation and other alternative means of dispute resolution shall be encouraged. These procedures shall be applied in accordance with the law.

### **Article 154**

They are the foundations of the jurisdictional function:

- a) Independence. Judges shall decide the matters before them without regard to internal or external influence or pressure. No organ of the State, no authority, no person or group of persons on special commission may in any case hear pending cases, review the grounds or content of judicial decisions or reopen concluded proceedings.
- b) Impartiality. Judges shall exercise their functions with impartiality, resolving the matters before them without bias, prejudice or discrimination of any kind with respect to the intervening parties.
- c) Inexcusability. When the intervention has been requested in a lawful manner and in matters within their jurisdiction, the courts may not excuse themselves from exercising their authority, even in the absence of a law that resolves the dispute or matter submitted to their decision, unless the matter is pending before another court.
- d) Empire. In order to enforce their rulings and carry out or cause to be carried out the acts of investigation determined by law, the ordinary courts of justice and the special courts that make up the Judicial Power may issue direct orders to the public forces or exercise the appropriate means of action at their disposal. The other courts shall do so in the manner determined by law. The requested authority shall comply with the injunction without further formality and may not qualify its basis or timeliness, nor the justice or legality of the resolution to be enforced.
- e) Liability. Judges are personally liable in their jurisdictional actions for the crimes of bribery, non-compliance in substantive matters with the laws governing procedure, denial and distorted administration of justice and, in general, for any prevarication in which they incur in the performance of their duties and in other cases expressly determined by law. In the case of members of the Supreme Court, the law shall determine the cases and the manner of enforcing this liability.
- f) Inviolability. The magistrates of the High Courts of Justice, the judicial prosecutors and the learned judges may not be apprehended without the order of the competent court, except in the case of a crime or simple offence in flagrante delicto and only in order to immediately bring them before the court that must hear the case in accordance with the law.
- g) Immovability. Judges shall remain in office during their good behaviour.

### **Article 155**

1. The highest judicial body of the Judiciary shall be the Supreme Court, which shall be composed of twenty-one ministers. The Supreme Court shall represent the courts of justice vis-à-vis the other branches of government.
2. The Supreme Court shall be responsible for ensuring the uniform interpretation and application of the legal system, guaranteeing the effective enforcement of constitutional rights and guarantees in matters within its jurisdiction, as well as the other powers established by this Constitution and the law.
3. The High Courts of Justice may issue orders in order to issue general instructions aimed at ensuring the most expeditious and efficient functioning of the administration of justice. In no case may such orders relate to matters proper to the law.
4. The law shall establish the existence of substitute justices to sit in the chambers or plenary of the High Courts of Justice in the absence of their full justices. The substitute ministers may include lawyers from outside the administration of justice. Those who take on these tasks must be full-time officials of the judiciary.

**Article 156**

1. An institutional law shall determine the organisation and powers of such courts as may be necessary for the prompt and efficient administration of justice throughout the territory of the Republic. The same law shall specify the requirements to be met by judges and the number of years that persons appointed as Court Ministers or Judges at Law must have practised the legal profession.
2. The law regulating the jurisdictional function of the courts, referred to in the preceding paragraph, may only be amended after prior hearing of the Supreme Court in accordance with the provisions thereof.
3. Laws relating to the appointment, disciplinary function, training of judges, as well as the management and administration of the judiciary, may only be amended after prior hearing of the respective autonomous body, as provided for in Article 157.
4. The Supreme Court and the respective autonomous bodies shall issue their opinion within a period of thirty days from receipt of the official letter requesting the relevant opinion, in accordance with the respective institutional law.
5. However, if the President of the Republic has indicated an urgency for the project consulted, this circumstance shall be communicated to the Supreme Court and to the respective autonomous bodies. In such a case, the latter shall be obliged to evacuate the consultation within the term indicated by the respective urgency.
6. If the Supreme Court and the respective autonomous bodies fail to rule within the time limits set out in paragraphs 4 and 5, the procedure shall be deemed to have been completed.
7. The institutional law relating to the organisation and powers of the courts, as well as the procedural laws regulating a system of prosecution, may set different dates for their entry into force in the various regions of the national territory.
8. In each commune of the country there shall be courts with jurisdiction to hear proceedings for contraventions, legal and municipal misdemeanours, neighbourhood matters, small claims and any others determined by law. The law shall provide for the adoption of alternative means of conflict resolution in accordance with the provisions of Article 153(3).

**Article 157**

1. For the governance of the Judiciary there shall be autonomous bodies responsible for the appointment of its members, the exercise of disciplinary powers, the training and further training of judges and officials, as well as the management and administration of the Judiciary. There shall be one body for each of them, which shall function separately and in a coordinated manner.
2. An institutional law shall regulate, in each case, the powers, organisation, functioning and other attributions of the respective bodies exercising judicial governance.
3. The members of the governing bodies of the autonomous bodies shall serve for four years and shall be eligible for re-election once, except for the body in charge of judicial appointments.

**Article 158**

1. There shall be a Coordinating Council of the Judiciary, whose sole function shall be to coordinate the actions of the autonomous bodies referred to in the previous article, among themselves and with the Supreme Court, without prejudice to their respective separate and independent functioning. This Council shall be of a permanent and consultative nature.
2. The Coordinating Council of the Judiciary shall be composed of:
  - a) The President of the Supreme Court, who shall preside over it.
  - b) A minister of the Supreme Court, appointed by its plenary.
  - c) A Minister of the Court of Appeal, appointed by its members.
  - d) Two members from each of the above-mentioned autonomous bodies, elected by the respective highest governing bodies of each of them, from among their members. These commissioners shall serve for two years and may be re-elected only once. In any case, at least one of the representatives of each autonomous body shall be a judge.
3. An institutional law will regulate the functioning of this Council.

**Article 159**

1. There shall be a body whose function shall be to designate or nominate, as the case may be, the judicial ministers and prosecutors of the Supreme Court, the Courts of Appeal, the learned judges, the auxiliaries in the administration of justice and such other persons as may be established by law. Appointments and nominations shall be based on objective factors, especially professional ability, merit, probity and experience.

2. The ministers and judicial prosecutors of the Supreme Court shall be appointed by the President of the Republic, who shall choose them from a list of five persons to be proposed in each case by the body referred to in subsection 1 and with the agreement of the Senate. The Senate shall adopt the respective resolutions by a three-fifths majority 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 body established in subsection 1 shall complete the list by proposing a new name to replace the rejected one, repeating the procedure until an appointment is approved.
3. Five of the members of the Supreme Court must be lawyers from outside the administration of justice, have at least fifteen years of professional experience, have distinguished themselves in professional or university activity and meet the other requirements established by the respective institutional law.
4. The body referred to in paragraph 1 shall draw up the corresponding list, taking into account the merits of the candidates evaluated by means of a public background competition, whether the position corresponds to a member of the Judiciary or is a vacancy to be filled with lawyers from outside the administration of justice.
5. The same body shall be responsible for authorising transfers and exchanges of judges and judicial officials.
6. The body responsible for judicial appointments shall periodically conduct judicial performance appraisal, in the manner established by law. The results of these processes and the main considerations in arriving at them shall be made public.
7. Appointments and nominations shall be made after a public and transparent competition, in the manner established by institutional law.
8. The body referred to in this Article shall be composed of:
  - a) A person appointed by the President of the Republic, after a public competition.
  - b) Two persons appointed by the Senate, after a public competition.
  - c) Four judges appointed in accordance with Article 164, who may not exercise judicial functions during their term of office.
9. The members of the appointing body shall be full-time and shall always act with due diligence, objectivity, probity, independence and impartiality. In the case of judges, once they have completed their term of office, they shall return to their functions in the manner determined by law.
10. The appointments agreed upon by this body shall be formalised by the President of the Republic by means of a decree.

#### **Article 160**

Judges shall cease to hold office on reaching the age of seventy-five years, or by resignation or legal incapacity, or in the event of being removed from office for a legally established cause. The age rule shall not apply to the President of the Supreme Court, who shall continue in office until the end of his term.

#### **Article 161**

1. An autonomous body, with legal personality, shall have the function of administering and managing the human, physical, financial and technological resources of the Judiciary. It shall be headed by a Board of Directors.
2. The operational autonomy established in paragraph 1 shall be subject to the principles of probity and transparency, and to auditing in the form established by institutional law, which may determine other forms of internal and external audits.
3. The Board of Trustees shall be composed of:
  - a) A minister of the Supreme Court, appointed by the Supreme Court, who shall preside over it.
  - b) A Minister of the Court of Appeal, elected by its members.
  - c) Two judges appointed in accordance with Article 164.
  - d) Three professional advisors, with experience in administration and resource management in the public or private sector, elected by public competition in a manner to be determined by law.
4. The Board of Trustees shall appoint an Executive Director from a list of three candidates drawn up by public competition in a manner to be determined by law.

#### **Article 162**

1. The function of an autonomous body shall be to oversee the proper conduct of judges, officials of the judiciary, judicial assistants and other persons determined by law.
2. This body shall be composed of all judicial prosecutors established in accordance with the law and shall have a Board of Directors chaired by the Judicial Prosecutor of the Supreme Court, and composed of four judicial prosecutors from the Courts of Appeal, elected by them in a single vote.

3. In no case shall court prosecutors exercise judicial functions.
4. Judicial prosecutors shall conduct investigations into disciplinary and probity offences against the persons referred to in paragraph 1 of this Article and shall bring charges if appropriate. It shall be the responsibility of a Conduct Tribunal, specially composed of three judges, drawn by lot on each occasion from among the persons referred to in paragraph d) of subsection 1 of Article 164. An appeal for annulment of such judicial decisions may only be lodged with a new Court of Conduct, constituted in the same way by judges other than those who issued the decision appealed against.
5. The institutional law shall establish the procedure that prosecutors shall follow in their actions, as well as the form of the establishment of the Conduct Tribunal that will resolve their accusations, ensuring that the actions of judges and prosecutors guarantee access to justice and due process. In any case, disciplinary proceedings shall not be opened for decisions contained in judicial resolutions issued in jurisdictional matters.

#### **Article 163**

1. The purpose of an autonomous body, endowed with legal personality, shall be the training of candidates for the posts of judges and ministers of the Courts of Appeal and the further training of all members of the judiciary.
2. The top management of this body will be in the hands of a Board of Trustees, composed of:
  - a) A minister of the Supreme Court, who will preside over it.
  - b) A representative of the President of the Republic.
  - c) A Minister of the Court of Appeal, elected by his or her peers.
  - d) Three judges, appointed in accordance with Article 164.
  - e) A president of one of the country's bar associations, elected by the presidents of all of them.
  - f) Two professors from the country's law faculties, chosen by the deans of the accredited faculties as required by law.

#### **Article 164**

1. For the appointment every four years of the judges referred to in Articles 159(8)(c), 161(3)(c), 162(4) and 163(2)(d), the following procedure shall be followed:
  - a) In each jurisdictional territory of the country's courts of appeal, the judges forming part of it shall elect by single ballot two judges respectively, except in the jurisdictional territories of the four largest courts of appeal in the country, in which case four judges respectively shall be elected.
  - b) The judges elected in accordance with the previous paragraph shall form a list, from which the judges who are to sit on the aforementioned autonomous bodies shall be drawn by lot.
  - c) Once the judges have been drawn by lot in the manner set out in paragraphs a) and b) of this Article, three judges shall be chosen by lot from among the others, who shall serve as deputies to those appointed as full members of the respective autonomous bodies, distributed one to each of the executive councils established in Articles 159, 161 and 163.
  - d) Judges who are not selected to perform the duties set out in the previous paragraphs shall form part of the list of judges referred to in Article 162, paragraph 4.
2. The law shall determine the procedures, the timing and the judicial authorities that will fulfil this task.

## **CHAPTER VIII CONSTITUTIONAL COURT**

#### **Article 165**

1. The Constitutional Court is a judicial, autonomous and technical body whose function is to guarantee the supremacy of the Constitution.
2. An institutional law shall regulate its organisation, functioning and procedures, in accordance with the provisions of this Chapter. It shall also determine the establishment plan, remuneration system and status of its staff.

#### **Article 166**

1. The Constitutional Court shall be composed of nine members who shall be appointed as follows:
  - a) The Supreme Court, after a public competition, shall draw up a duly substantiated list, in a session specially convened for this purpose and in a single ballot.
  - b) The President of the Republic shall draw up a list of two candidates, from the list proposed by the Supreme Court, to be submitted to the Senate.

c) The Senate, after a public vetting hearing, shall choose a candidate from the proposed pair by a three-fifths majority of its members in office.

d) In the event that none of the candidates in the Senate meets the *quorum*, the Supreme Court will have to complete the list with two new names, starting a new process.

e) If for the second time no candidate meets the *quorum* in the Senate, the Supreme Court shall proceed to draw lots among the four candidates who have been proposed in pairs by the President of the Republic.

2. The appointment process must be initiated ninety days before the incumbent to be replaced leaves office.

3. The members of the Constitutional Court shall serve for a term of nine years and shall be renewed by halves at the rate of one member per year. They shall be irremovable and shall not be eligible for re-election, except for a replacement who has held office for a period of less than five years.

4. The Constitutional Court shall have two substitute members, who may replace the full members and sit in the plenary or any of the chambers only in the event that the respective *quorum* is not reached. The alternates shall meet the same requirements to be appointed as members of the Constitutional Court. The respective institutional law shall regulate the appointment procedure and the other elements of its statute.

#### **Article 167**

1. The members of the Constitutional Court must have at least fifteen years of law degree and have recognised and proven professional or academic competence and suitability in the field of their functions, may not have any impediment that would disqualify them from holding the office of judge and must possess the other qualities necessary to be a citizen with the right to vote.

2. They shall be subject to the rules laid down in Articles 70, 71 and 154(f) and may not practice the profession of lawyer, including the judiciary, or any of the acts set out in Article 72(2) and (3).

3. However, they shall cease to hold office on reaching the age of seventy-five years.

4. In the event that a member of the Constitutional Court ceases to hold office, he shall be replaced in accordance with the preceding article and for the remainder of the term of office of the person being replaced.

5. The institutional law shall determine the rules of implication and recusal of full and substitute members of the Constitutional Court.

#### **Article 168**

1. The Constitutional Court shall function as a full Court or divided into two chambers. In the first case, the *quorum* for sitting shall be at least seven members, and in the second case, four. The Constitutional Court shall adopt its decisions by a simple majority of its members, except in cases where the Constitution requires a different *quorum*.

2. The Constitutional Court in plenary session shall rule definitively on the powers indicated in paragraphs a), b), c), d), e), f), g), h) and k) of the following Article. For the exercise of its other powers, it may operate in plenary or in chambers in accordance with the provisions of the respective institutional law.

3. The person presiding over the Constitutional Court shall not have a casting vote and shall exercise the powers set out in the respective institutional law. Likewise, in the absence of any of its members, he/she shall have the power to sit in any of the chambers.

#### **Article 169**

These are powers of the Constitutional Court:

a) To resolve, by a two-thirds majority of its members in office, questions of procedural or competence infractions established in the Constitution or in the institutional law of the National Congress and which arise during the processing of bills, constitutional reform bills and international treaties submitted to Congress for approval. The Constitutional Court shall hear the matter at the request of the President of the Republic, of any of the Houses or of one third of its members, provided that it is formulated before the promulgation of the law or the sending of the communication informing of the approval of the treaty by the National Congress and, in any case, after the fifth day of the dispatch of the bill or of the aforementioned communication. If the question is upheld, the Constitutional Court shall refer the matter to the House concerned for the purpose of rectifying the defect. If the bill has already been dispatched, a joint committee shall be set up to propose the form and manner of remedying it, in accordance with the procedure set out in Article 85(1). The injunction shall not suspend the processing of the bill, but the contested part of the bill may not be promulgated until the defect has been rectified, except in the

case of the draft Budget Law or the bill relating to the declaration of war proposed by the President of the Republic.

b) To decide whether a particular motion or indication to a bill is the exclusive initiative of the President of the Republic. The question may be raised by one third of the deputies or senators in office. The Constitutional Court shall hear the matter on the sole merit of the background information sent by the respective Chamber and without the form of a trial. The judgement shall be pronounced within five days of the submission of the background information, without, in the meantime, suspending the processing of the bill.

c) To report, by a majority of its members, on consultations on questions of constitutionality that arise during the processing of bills and international treaties submitted to the National Congress for approval. The Constitutional Court shall hear the matter at the request of the President of the Republic, of either of the Houses or of one third of its members, provided that it is formulated after the bill or treaty has been dispatched by either of the Houses and, in any case, before the promulgation of the law or the sending of the communication informing of the approval of the treaty by the National Congress; and, in any case, no later than five days after the dispatch of the bill or of the aforementioned communication. The Constitutional Court shall send the report to the respective Chamber within ten days of receiving the consultation, unless it decides to extend it for up to another ten days for serious and qualified reasons.

d) Resolve, by a majority of its members in office, the inapplicability of a legal precept whose application in a case pending before an ordinary or special court is contrary to the Constitution.

Any of the chambers of the Constitutional Court shall be responsible for declaring, without further appeal, the admissibility of the matter, provided that it verifies the existence of an action pending before the ordinary or special court, that the application of the legal precept challenged may be decisive in the resolution of the case and that the challenge is reasonably founded. The applicant must demonstrate, in the specific circumstances of the case, a flaw of unconstitutionality that can only be remedied by declaring the legal provision inapplicable. The same chamber shall be responsible for deciding on the suspension of the proceedings in which the action of inapplicability on grounds of unconstitutionality has arisen. With regard to the suspension, the judge of the pending proceedings shall always have the power to be heard at any stage of the inapplicability proceedings. The question may be raised before the Constitutional Court by any of the parties or by the judge hearing the case. In the event that the question is raised by one of the parties, the judge hearing the case may report on the decisive application of the legal precept, which in any case shall not prevent it from being admitted for processing and admissibility.

e) To rule by three quarters of its members in office on the unconstitutionality of a legal precept declared inapplicable in accordance with the preceding paragraph. There shall be a public action to request the Constitutional Court to declare it unconstitutional, without prejudice to the Court's power to declare it *ex officio*. The Constitutional Court may only accept this action if all the possible applications of the provision in question are unconstitutional.

f) To resolve questions arising on the constitutionality of a decree with force of law represented by the Office of the Comptroller General of the Republic in accordance with Article 77. The question may be raised by the President of the Republic within ten days of the representation. It may also be brought by any of the Houses or by one third of their members within thirty days of the publication of the respective decree with force of law that is challenged as unconstitutional, notwithstanding the fact that it has been taken on record.

g) To resolve complaints in the event that the President of the Republic fails to promulgate a law when he should do so or promulgates a text other than that which constitutionally corresponds to it. The matter may be brought by either of the Houses or by a quarter of their members within thirty days of the publication of the contested text or within sixty days of the date on which the President of the Republic should have promulgated the law. If the Constitutional Court upholds the complaint, it shall promulgate in its ruling the law that has not been promulgated or shall rectify the incorrect promulgation. h) To rule on the constitutionality of a decree or resolution of the President of the Republic that the Office of the Comptroller General of the Republic has represented as unconstitutional, when requested to do so by the President in accordance with paragraph 4 of Article 190.

i) To rule on defects in the constitutionality of supreme decrees. The Constitutional Court may hear the matter at the request of either of the Houses, or of one third of the members in office. The request must be submitted within thirty days of the publication or notification of the contested text.



- j) To rule on questions of constitutionality of orders issued by the Supreme Court, the Courts of Appeal and the Tribunal Qualificador de Elecciones. The Constitutional Court may hear the matter at the request of the President of the Republic, of any of the Houses or of ten of its members. Likewise, the Constitutional Court may be petitioned by any person who is a party to a lawsuit or action pending before an ordinary or special court, or from the first action in criminal proceedings, when it is established, in the specific circumstances of the case, that the exercise of their fundamental rights has been affected by the provisions of the respective order, which can only be remedied by a declaration of inapplicability of the provision being challenged.
- k) To resolve questions of constitutionality that arise in relation to the call for a plebiscite, without prejudice to the powers of the Tribunal Calificador de Elecciones. The question may be brought at the request of the Senate or of the Chamber of Deputies, within ten days of the date of publication of the decree setting the date of the plebiscite. The Constitutional Court shall establish in its ruling the definitive text of the plebiscite consultation, where this is appropriate. If, at the time of the ruling, less than thirty days remain before the plebiscite is to be held, the Constitutional Court shall set a new date in the ruling, between thirty and sixty days following the ruling.
- l) To rule on the constitutionality of the referendum initiative under the terms set out in Article 48(2).
- m) To rule on constitutional or legal disqualifications affecting a person to be appointed Minister of State, to remain in that position or to simultaneously perform other functions. There shall be a public action to require the Constitutional Court to exercise this power.
- n) Declare unconstitutional political parties, movements or other forms of organization whose objectives, acts or conduct do not respect the basic principles of the democratic regime, as well as those that make use of, advocate or incite violence. The Constitutional Court will be able to make a conscientious assessment of the facts.
- ñ) To resolve conflicts of competence that may arise between national, regional, provincial and communal authorities. The matter may be brought by any of the authorities in conflict.
- o) To resolve conflicts of competence arising between the political or administrative authorities and the courts of justice, which do not fall within the competence of the Senate. The matter may be brought by any of the authorities or courts in conflict.

#### **Article 170**

1. Decisions of the Constitutional Court shall not be subject to any reservations, but only to dissenting votes. No appeal shall lie against them, without prejudice to the right of the Constitutional Court itself, in accordance with its institutional law, to rectify any errors of fact it may have made.
2. Provisions declared unconstitutional by the Constitutional Court may not become law in the bill whose defects have not been amended in accordance with Article 169(a), or in a decree with the force of law, as the case may be.
3. In the case of article 169 (i), the challenged supreme decree shall be null and void as of right, with the sole merit of the ruling of the Constitutional Court that accepts the claim. However, the provision declared unconstitutional in accordance with the provisions of subparagraphs e), f) and (j) of Article 169 shall be deemed to have been repealed upon publication in the Official Journal of the judgment upholding the claim, which shall not have retroactive effect. These judgements shall be published within three days of their pronouncement.
4. A judgment upholding or rejecting the inapplicability of a legal precept or of the provision of an agreed order shall be binding on the court in whose administration it is to have effect and must be expressly considered in the grounds of its decision.
5. The sentence that accepts the action in accordance with article 169, paragraph e), shall be sent to the National Congress, which may, within a period of ninety days, re-legislate in order to rectify the unconstitutionality defect declared. Once this period has elapsed, the judgement shall be published in the Official Gazette, at which time the legal provision declared unconstitutional shall be deemed to have been repealed. The amendment or replacement of the legal provision shall not prevent another question of unconstitutionality from being raised in respect of it.

## CHAPTER IX PUBLIC PROSECUTION

### Article 171

1. The Public Prosecutor's Office is an autonomous, hierarchical body, which shall exclusively direct the investigation of the facts constituting a crime, those that determine punishable participation, those that allow for aggravating or mitigating criminal liability and those that prove the innocence of the accused and, where appropriate, shall exercise public criminal prosecution in the manner provided for by law. It shall also be responsible for taking measures to protect victims and witnesses. In no case may it exercise jurisdictional functions and in all its actions it must follow unrestricted adherence to the requirements of due process and the fundamental guarantees of the accused, victims and witnesses.
2. The Public Prosecutor's Office, representing the people of Chile, shall exercise public criminal prosecution in the manner provided by law and shall always act objectively and independently, free from any undue influence, respecting the public interest and with high standards of integrity.
3. The offended party and other persons determined by law may also bring criminal proceedings.
4. The Public Prosecutor's Office may issue direct orders to the Law Enforcement and Security Forces during the investigation. The requested authority shall comply with such orders without further formality and may not qualify their basis, timeliness, justice or legality, except by requiring the production of prior judicial authorisation, as the case may be. However, any action that deprives the accused or third parties of the exercise of the rights guaranteed by this Constitution, or restricts or disturbs them, shall require prior judicial approval.
5. The exercise of public criminal prosecution and the conduct of investigations into the facts that constitute the offence, those that determine punishable participation, those that make it possible to aggravate or mitigate criminal responsibility and those that prove the innocence of the accused in cases brought before the military courts, as well as the adoption of measures to protect the victims and witnesses of such facts, shall be the responsibility, in accordance with the rules of the Code of Military Justice and the respective laws, of the bodies and persons determined by that Code and those laws.

### Article 172

1. The Public Prosecutor's Office will be organised into a National Prosecutor's Office which will direct its work through Regional Prosecutor's Offices.
2. Regional Prosecutor's Offices will organise their work through local Prosecutor's Offices.
3. At the same time, there will be a High Complexity Prosecutor's Office and an Internal Affairs Prosecutor's Office within the organisational structure of the Public Prosecutor's Office.
4. There shall be an Advisory Council of the Public Prosecutor's Office and a General Council of the Public Prosecutor's Office.

### Article 173

1. An institutional law shall determine the organisation and attributions of the Public Prosecutor's Office and the grounds for dismissal and removal of deputy prosecutors, as far as not provided for in the Constitution. Persons appointed as prosecutors may not have any impediment that would disqualify them from holding the office of judge.
2. The National Prosecutor, the Regional Prosecutors, the High Complexity Prosecutor and the Internal Affairs Prosecutor shall leave office at the end of their term.
3. Persons who hold any of the positions referred to in the previous paragraph and deputy public prosecutors shall cease to hold office upon reaching the age of seventy-five, upon conviction for a felony or simple misdemeanour, or on other grounds established by law.
4. The institutional law regulating the Public Prosecutor's Office shall establish the degree of independence, autonomy and accountability of prosecutors in the exercise of their functions.

### Article 174

1. Active members of the Judiciary may not apply for the post of National, High Complexity, Internal Affairs, Regional or Deputy Prosecutor.
2. Those who exercise any of the functions referred to in the previous paragraph may not run for elected office within two years of the end of their term of office.

### Article 175

1. The National Public Prosecutor is the highest authority of the Public Prosecutor's Office, to whom the regional prosecutors and deputy prosecutors shall report directly and hierarchically. The National

Public Prosecutor shall have the directive, correctional and economic superintendence of the Public Prosecutor's Office, in accordance with the institutional law that regulates this body.

2. The National Public Prosecutor shall be appointed on the proposal of the President of the Republic, with the agreement of the Senate adopted by three fifths of its members in office, in a session specially convened for this purpose. The President shall make the proposal on the basis of a list drawn up by the Supreme Court, which shall be drawn up after public hearings on a list of ten candidates determined by a public competition system established by institutional law. If the Senate does not approve the proposal of the President of the Republic, the Supreme Court shall again complete the list by voting among the remaining candidates. If the President's proposal is again rejected by the Senate, the procedure shall be repeated successively. The list drawn up by the Supreme Court shall be formed in a single ballot in which each member of the full Supreme Court shall be entitled to vote for three persons, with the first five majorities being elected. In the event of a tie, it shall be decided by drawing lots.

3. In the event of the resignation of any of the candidates included in the list, the Supreme Court shall propose a new name to replace the resigned candidate from the list submitted through the public competition system determined by law.

4. The election process for the National Prosecutor shall begin ninety days before the office becomes vacant.

5. The National Prosecutor must have at least fifteen years of law degree, meet the requirements of experience and training appropriate to the position, and have none of the incapacities, incompatibilities and prohibitions established in institutional law and possess the other qualifications required to be a citizen with the right to vote. He or she shall serve for a term of eight years and may not be reappointed to the post.

6. The National Public Prosecutor may order the temporary assignment of officials of the Public Prosecutor's Office to another position of equal or higher rank.

#### **Article 176**

1. There will be a High Complexity Prosecutor's Office, with national jurisdiction, which will be responsible for the exercise of the functions and attributions of the Public Prosecutor's Office, in crimes of greater complexity. The organisation of the High Complexity Prosecutor's Office and the crimes it prosecutes will be determined by the National Prosecutor, in accordance with institutional law, having previously heard the Consultative Council.

2. In the exercise of its powers, the High Complexity Prosecutor's Office shall act in coordination with the Regional Prosecutor's Offices.

3. It will be headed by a High Complexity Prosecutor who will serve for eight years and once he/she has left office, he/she may not be appointed for a new term, although he/she may be appointed to another position in the Public Prosecutor's Office.

4. The appointment and disqualifications of the High Complexity Prosecutor shall be governed by the rules established for regional prosecutors. However, he/she shall remain in office as long as he/she has the confidence of the National Prosecutor, except as expressly exempted by the Constitution and the law.

#### **Article 177**

1. There shall be an Internal Affairs Prosecutor's Office, which shall be responsible for the exercise of the functions and attributions of the Public Prosecutor's Office, in the cases and under the conditions established by institutional law, in the case of acts constituting a crime in which the National Prosecutor, regional prosecutors, deputy prosecutors and other officials of the Public Prosecutor's Office may be involved.

2. It shall be headed by an Internal Affairs Prosecutor who shall serve for six years and, once he has left office, may not, in any case, be appointed in any capacity as a prosecutor or official of the Public Prosecutor's Office. This prohibition shall be extended for a period of two years from the date of leaving office.

3. The Prosecutor for Internal Affairs shall be appointed by the Supreme Court, on the basis of a proposal from a shortlist drawn up through a public competition system established by institutional law. In the case of the Internal Affairs Prosecutor, the rules established for regional prosecutors shall apply.

#### **Article 178**

1. There shall be a Regional Public Prosecutor in each of the regions into which the country is administratively divided, unless the population or the geographical extension of the region makes it necessary to appoint more than one. The institutional law shall determine the organisation, functioning and detailed competences of the latter.

2. Regional prosecutors shall be appointed by the National Prosecutor, on the basis of a shortlist of three candidates drawn up through a public competition system established by institutional law.

3. Regional prosecutors must have at least ten years of law degree, meet the requirements of experience and training appropriate to the position and possess the other qualities necessary to be a citizen with the right to vote; they shall serve for eight years and may not be reappointed as regional prosecutors, which does not prevent them from being appointed to another position in the Public Prosecutor's Office.

#### **Article 179**

1. There shall be deputy prosecutors who shall be appointed by the National Prosecutor, on the proposal of a shortlist of three candidates drawn up by the Regional Prosecutor, the High Complexity Prosecutor or the Internal Affairs Prosecutor, as appropriate, which shall be drawn up following a public competition, in accordance with institutional law. They must have a law degree and possess the other qualifications required to be a citizen with the right to vote.

2. The deputy prosecutors will form the local prosecutors' offices, through which the regional prosecutors' offices will organise their work.

3. Deputy prosecutors of the Office of the Public Prosecutor for Internal Affairs shall serve for a term of six years. Once they have left office, they may not be appointed as a prosecutor or official of the Public Prosecutor's Office, with the exception of the post of National Prosecutor or Internal Affairs Prosecutor. This prohibition shall be extended for a period of one year after they have left office.

#### **Article 180**

1. There shall be an Advisory Council of the Public Prosecutor's Office chaired by the National Prosecutor, whose function shall be to advise him/her and which shall be composed of:

- a) The Minister in charge of public security or his or her designate.
- b) The General Director of Carabineros de Chile.
- c) The Director General of the Investigative Police of Chile.
- d) The National Director of Gendarmería de Chile.
- e) Two university academics with recognised and proven professional competence and suitability, chosen through a public competition system established by institutional law.
- f) Two former regional prosecutors drawn by lot for this purpose.

2. The National Public Prosecutor shall hear the Advisory Council of the Public Prosecutor's Office at least prior to:

- a) Approval of the institutional strategic plan and the institution's criminal prosecution policy.
- b) Establish modalities for citizen participation.
- c) The determination of the institutional target plan and the external evaluation of its performance.
- d) The definition of the organisation and the matters that fall within the jurisdiction of the High Complexity Prosecutor's Office.

3. The institutional law shall determine its functioning, the mechanisms for drawing lots and other matters within its competence.

#### **Article 181**

There will be a General Council of the Public Prosecutor's Office composed of the High Complexity Prosecutor and the regional prosecutors, which will be presided over by the National Prosecutor and whose attributions will be established by the institutional law that regulates the Public Prosecutor's Office.

#### **Article 182**

1. The National Prosecutor, the High Complexity Prosecutor, the Internal Affairs Prosecutor and the regional prosecutors may only be removed by the Supreme Court, at the request of the President of the Republic of Macedonia. The Supreme Court shall hear the matter in a specially convened plenary session of the Chamber of Deputies, or of ten of its members, for breach of the rules governing the office, incapacity, misbehaviour, manifest negligence in the exercise of their functions or notable dereliction of duty. The Supreme Court shall hear the matter in a plenary session specially convened for this purpose and, in order to agree on the removal, it must obtain the affirmative vote of the majority of its members in office.

2. The removal of regional prosecutors, the High Complexity Prosecutor and the Internal Affairs Prosecutor may be requested by the National Prosecutor.

### **Article 183**

The National Prosecutor, the High Complexity Prosecutor, the Internal Affairs Prosecutor, the Regional Prosecutors and the Deputy Prosecutors may not be apprehended without a warrant from the competent court, except in the case of a flagrant crime or simple offence and only in order to immediately bring them before the court that must hear the case in accordance with the law.

### **Access to Justice and Victim's Advocacy Service**

#### **Article 184**

Without prejudice to the powers of the Public Prosecutor's Office and in consideration of the guarantees of access to justice established in this Constitution, there shall be a Service for Access to Justice and Victims' Advocacy so that persons who are victims of crime may have access to defence and specialised legal representation and assistance in the psychological and social sphere. This service shall be autonomous and a law shall determine its organisation, functioning and competences.

## **CHAPTER X ELECTORAL JUSTICE AND ELECTORAL SERVICE**

### **Article 185**

1. A special court, to be called the Tribunal Calificador de Elecciones, shall have the function of keeping a reliable record of the expression of the will of the people expressed by suffrage in the elections, referendums and plebiscites established by this Constitution. It shall have the directive, correctional and economic superintendence of all the regional electoral tribunals, and shall ensure the timeliness and speed of electoral justice.

2. This Court shall have the following powers:

- a) To know the general scrutiny and qualification of the elections of the President of the Republic, regional governors, deputies and senators.
- b) To decide on complaints and requests for rectification of the elections of the President of the Republic, regional governors, deputies and senators.
- c) Proclaim the President of the Republic, regional governors, deputies and senators who are elected, notifying the President of the Senate, the President of the Chamber of Deputies, the representative of the President of the Republic in the corresponding region and province, the Regional Governor and the Regional Council respectively.
- d) To rule on the disqualifications, incompatibilities and grounds for dismissal from office of parliamentarians in accordance with the provisions of Article 72 of this Constitution.
- e) Qualify the inability invoked by deputies and senators to resign from their posts when they are affected by a serious illness that prevents them from carrying out their duties.
- f) To hear and decide on the complaint against the final judgement issued by the supreme court of political parties, when it decides on the suspension and expulsion of a militant in accordance with article 45, paragraph 9 of this Constitution.
- g) To hear and decide on the complaint against the resolution that determines the expulsion of a deputy or senator from a political party.
- h) To declare the cessation of the office of regional governor, mayor, regional councillor and councillor at the request of the Board of Directors of the Electoral Service for the offence referred to in section 151(2) of this Constitution.
- i) To hear and qualify referendums and plebiscites, without prejudice to the powers of the Constitutional Court in this area.
- j) Exercise such other powers as may be determined by law.

3. It shall consist of five members appointed as follows:

- a) Four ministers of the Supreme Court, appointed by the latter, by drawing lots, in the manner and at the time determined by the respective institutional law.
- b) A citizen who has held the office of President or Vice-President of the Chamber of Deputies or of the Senate for a period of not less than three hundred and sixty-five days, appointed by the Supreme Court in the manner indicated in paragraph a) above, from among all those who meet the aforementioned qualifications. The institutional law shall determine the corresponding remuneration for the exercise of this function.

4. The appointments referred to in subparagraph b) of the preceding paragraph may not be made by parliamentarians, candidates for elected office, ministers of state, or leaders of political parties.
5. The term of office of the members of this Court shall be four years. However, they shall cease to hold office on reaching the age of seventy-five years and the provisions of Articles 70 and 71 of this Constitution shall apply to them.
6. The Tribunal Calificador de Elecciones shall proceed as a jury in the assessment of the facts and shall rule in accordance with the law.
7. An institutional law shall regulate the organisation and functioning of the Tribunal Calificador de Elecciones.

#### **Article 186**

1. There shall be regional electoral tribunals responsible for the general scrutiny and qualification of the elections entrusted to them by law, as well as for resolving any complaints that may arise and proclaiming the candidates elected. They shall also be responsible for the qualification of elections of a trade union nature and those taking place in such intermediate groups as may be specified by law. Their decisions may be appealed before the Tribunal Calificador de Elecciones when so determined by law.
2. These tribunals shall be composed of a Minister and two members who are or have been The Court of Appeal shall appoint by lot, in the manner and at the time determined by the institutional law, a substitute Minister of the respective Court of Appeal.
3. The members of this court shall serve for six years. However, they shall cease to hold office on reaching the age of seventy-five years and shall be subject to such disqualifications and incompatibilities as may be determined by law.
4. These courts shall sit as a jury in the assessment of the facts and shall give judgment according to law.
5. The institutional law shall determine the other powers of these courts and shall regulate their organisation and operation.

#### **Article 187**

1. An autonomous body, with legal personality and its own assets, called the Electoral Service, shall exercise the administration, oversight and supervision of elections, referendums and plebiscites; of compliance with the rules on transparency, limits and control of electoral spending; of the rules on political parties, and other functions established by an institutional law.
2. The top management of the Electoral Service shall be vested in a Board of Directors, which shall exercise exclusively the powers entrusted to it by the Constitution and the law. This Council shall be made up of five councillors appointed by the President of the Republic, subject to the agreement of the Senate, adopted by three fifths of its members in office. The Councillors shall hold office for ten years, may not be appointed for a further term, and shall be renewed in parts every two years.
3. Councillors may only be removed by the Supreme Court, at the request of the President of the Republic or of one third of the serving members of the Senate, for serious infringement of the Constitution or the laws, incapacity, misconduct or manifest negligence in the exercise of their functions. The Supreme Court shall hear the matter in a plenary session, specially convened for this purpose, and in order to decide on the removal, it must obtain the affirmative vote of the majority of its members in office.
4. The organisation and powers of the Electoral Service shall be established by an institutional law. This law shall regulate:
  - a) The administration and oversight of the general register of political party members and internal party elections.
  - b) The registration by the Electoral Service of the popular initiative and the repeal of laws, together with the provision of the system of sponsorship of the latter and their respective referrals. to the President of the Republic and the National Congress.
  - c) The request by the Board of Directors of the Electoral Service to remove Senators and Deputies from office for the offence referred to in Articles 72(7) and 151(2) of this Constitution.
  - d) Their form of deconcentration, the staffing levels, remuneration and status of staff established by institutional law.
5. The electoral law shall provide for the electoral registration system referred to in Article 41(2) of this Constitution, under the conditions indicated therein. The processing of electoral data shall be regulated by law.

6. Resolutions, rulings and final administrative acts of the Electoral Service that affect the rights of voters, candidates or political parties may be challenged before the Tribunal Calificador de Elecciones, in accordance with the law.

7. The protection of public order during elections, referendums and plebiscites shall be the responsibility of the Armed Forces, the Carabineros de Chile and the Gendarmería de Chile in the manner established by law.

## CHAPTER XI

### COMPTROLLER GENERAL'S OFFICE OF THE REPUBLIC

#### **Article 188**

1. An autonomous body, called the Office of the Comptroller General of the Republic, shall exercise control over the constitutionality and legality of the acts of the State Administration and of the regional and local administration, as well as over probity in the exercise of the administrative function.

2. The functions of the Office of the Comptroller General of the Republic are:

a) To control the constitutionality and legality of the Administration's acts, being able to take account of decrees and resolutions.

b) To supervise and audit the legality of the income, expenditure and investment of the funds of the Treasury and of the other bodies and services determined by law.

c) Reporting on financial management and issuing the administration's accounting regulations.

d) Examining and auditing the accounts, in accordance with the law.

3. The Office of the Comptroller General of the Republic shall exercise its powers in each of the regions of the country, in accordance with the provisions of the institutional law. The main function of the regional comptrollers' offices is to control the regional and local administration of the State.

4. The acts of the Office of the Comptroller General of the Republic shall be governed by the principles of probity, transparency and publicity, and the duty of accountability, in accordance with Article 11 of this Constitution.

5. An institutional law shall regulate its organisation, functioning and other competences, in accordance with the provisions of this Chapter.

#### **Article 189**

1. The Office of the Comptroller General shall be headed by a Comptroller General of the Republic. He shall be appointed by the President of the Republic with the agreement of the Senate adopted by three fifths of its members in office. He shall hold office for a period of eight years, may not be appointed for the following period and shall be irremovable. However, he shall cease to hold office on reaching the age of seventy-five. The appointment process must be initiated ninety days before the incumbent leaves office.

2. The Comptroller General must have at least fifteen years of law degree and have recognised and proven professional or academic competence and suitability in the field of his or her functions, as well as possessing the other qualifications required to be a citizen with the right to vote.

#### **Article 190**

1. The Comptroller General shall take note of the decrees and resolutions which, in accordance with the law and by means of a resolution issued by him, must be processed by the Office of the Comptroller General of the Republic or shall represent any illegality they may have.

2. The Comptroller General shall act on decrees and resolutions when, despite his representation of illegality, the President of the Republic insists on the signature of all his ministers, in which case he shall send a complete copy of the respective decrees to the Chamber of Deputies and the Chamber of Deputies. It shall in no case give effect to decrees of expenditure exceeding the limit laid down in the Constitution and shall send a full copy of the background to the same Chamber.

3. It shall also be responsible for taking account of decrees having the force of law, and shall represent them when they exceed or contravene the respective delegating law or are contrary to the Constitution.

4. If the representation is made in respect of a decree having the force of law, a decree promulgating a law or 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 shall not have the power to insist. If he is not satisfied with the representation of the Office of the Comptroller General of the Republic, he may refer the matter to the Constitutional Court within a period of ten days, in order for the latter to settle the dispute.

5. The Comptroller General shall not take cognizance of any decree or resolution approving disbursements or in any way pecuniarily committing the liability of the State, if the expenditure is not authorised by the Budget Act or by special laws.

6. The Comptroller General may interpret, in a manner that is mandatory and binding on the administration, administrative legislation on matters relating to the operation of the audited bodies and services. The law shall determine the basis of the procedure for issuing opinions and reports.

7. The actions of the Comptroller General may be challenged judicially through constitutional and legal actions.

#### **Article 191**

There shall be a Court of Auditors which shall judge the objections to the accounts made by the Office of the Comptroller General of the Republic. Its organisation, powers and procedure are matters of institutional law.

#### **Article 192**

No payment may be made by the State Treasury except by virtue of a decree or resolution issued by the competent authority, specifying the law or the part of the budget authorising the expenditure. Payments shall also be made in accordance with the chronological order established therein and after budgetary countersignature of the document ordering the payment.

## **CHAPTER XII CENTRAL BANK**

#### **Article 193**

The Central Bank is an autonomous body, with its own assets, of a technical nature, whose composition, organisation, functions and powers shall be determined by an institutional law.

#### **Article 194**

1. The purpose of the Central Bank shall be to ensure price stability and the normal functioning of internal and external payments.

2. For these purposes, the Central Bank may regulate the quantity of money and credit in circulation, carry out credit and international exchange operations and issue general rules on monetary, credit, financial and international exchange matters.

3. The Central Bank shall exercise its functions and powers with a view to safeguarding the fulfilment of the objectives referred to in paragraph 1, without prejudice to considering also the effects of monetary policy on economic activity and employment.

#### **Article 195**

1. The Central Bank may only carry out operations with financial institutions, whether public or private. It may in no way grant them its guarantee, nor may it acquire documents issued by the State, its agencies or enterprises.

2. Notwithstanding the above, in exceptional and transitory situations, in which the preservation of the normal functioning of internal and external payments so requires, the Central Bank may buy for a determined period of time and sell, in the open secondary market, debt instruments issued by the Treasury, in accordance with the provisions of the institutional law.

3. No public expenditure or loans may be financed by direct or indirect credits from the Central Bank.

4. The Central Bank may not adopt any agreement that directly or indirectly means establishing different or discriminatory rules or requirements in relation to persons, institutions or entities carrying out operations of the same nature.

#### **Article 196**

1. The senior management and administration of the Bank shall be vested in the Council of the Central Bank, which shall exercise the powers and perform the functions laid down in the Constitution and its institutional law.

2. In taking its decisions, the Council shall take into account the broad economic policy orientation of the government.

#### **Article 197**

1. The Council shall be made up of five councillors, appointed by the President of the Republic, by means of a supreme decree issued through the Ministry of Finance, subject to the agreement of the Senate adopted by three fifths of the members in office.



2. The members of the Council shall serve for a term of ten years and may be appointed for further terms, and shall be renewed by halves, one every two years.

3. The Chairman of the Board, who shall also be the Chairman of the Bank, shall be appointed by the President of the Republic from among the members of the Board and shall hold office for five years or such lesser period as remains to him/her as a director, and may be appointed for further terms.

**Article 198**

1. The President of the Republic may remove the director acting as Chairman of the Board and of the Bank, at the substantiated request of at least three of its members, on the grounds of noncompliance with the policies adopted or the rules issued by the Board.

2. Once the request has been received, the President of the Republic may accept or reject it. If he accepts the request, he shall require the prior consent of three fifths of the members of the Senate in office in order to proceed with the removal of the President of the Republic.

**Article 199**

1. The President of the Republic may remove any or all of the members of the Council for just cause and with the prior consent of the Senate, granted by three fifths of its members in office.

2. The removal may only be based on actions of the director that imply a serious and manifest breach of the objectives of the institution, of public probity, or that has incurred in any of the prohibitions or incompatibilities established in the Constitution or in institutional law and provided that such actions have been the principal and direct cause of significant damage to the country's economy.

**Article 200**

1. The Central Bank is governed by the principle of transparency in the exercise of its public functions, in accordance with the provisions of its institutional law.

2. The Central Bank shall render an annual account to the President of the Republic and to the National Congress in the manner determined by law. It shall also adopt rules of transparency and report periodically on the implementation of the policies for which it is responsible, the general measures and rules it adopts in the exercise of its functions and powers, and such other matters as may be requested of it, in accordance with the law.

## CHAPTER XIII ENVIRONMENTAL PROTECTION, SUSTAINABILITY AND DEVELOPMENT

**Article 201**

Environmental protection, sustainability and development are oriented towards the full exercise of people's rights, as well as the care of nature and its biodiversity, taking into account current and future generations.

**Article 202**

Individuals, communities and the State must protect the environment. This duty includes the conservation, preservation, restoration and regeneration of the functions and balances of nature and its biodiversity, as appropriate, in accordance with the law.

**Article 203**

The distribution of environmental burdens and benefits will be governed by criteria of equity and timely citizen participation, in accordance with the law.

**Article 204**

The state must promote the sustainable, harmonious and mutually supportive development of the national territory, encouraging private collaboration in this task.

**Article 205**

The State shall promote renewable energy sources, as well as the reuse and recycling of waste, in accordance with the law.

**Article 206**

The State shall implement mitigation and adaptation measures, in a timely and fair manner, to the effects of climate change. It shall also promote international cooperation to achieve these objectives.

**Article 207**

1. The State will have administrative and jurisdictional institutions in environmental matters, which will be of a technical nature.

2. Environmental assessment procedures shall be technical and participatory in nature, and shall ensure a reasonable and timely decision.

## CHAPTER XIV CONSTITUTIONAL CHANGE PROCEDURES

### Article 208

1. Constitutional reform projects may be initiated by a message from the President of the Republic or by a motion from any of the members of the National Congress, with the maximum limit of signatures established in Article 78.
2. In order to be approved in each chamber, the reform bill will require the assent of three-fifths of the deputies and senators in office.
3. In matters not provided for in this chapter, the rules on the formation of the law shall be applicable to the processing of constitutional reform projects, and the *quorum* indicated in the preceding paragraph shall always be respected.

### Article 209

1. The bill approved by both Chambers will pass to the President of the Republic.
2. If the President of the Republic totally rejects a reform bill approved by both Houses and the latter insist on its totality by three fifths of the members in office in each House, the President of the Republic shall promulgate the said bill, unless he consults the citizens by means of a referendum.
3. If the President of the Republic partially observes a reform bill approved by both Houses, the observations shall be deemed to have been approved with the affirmative vote of three fifths of the members in office in each House, and it shall be returned to the President of the Republic for promulgation.
4. In the event that the Houses do not approve all or some of the observations of the President of the Republic, there shall be no constitutional reform on the points of disagreement, unless both Houses insist by two-thirds of their members in office on the part of the draft approved by them. In the latter case, the part of the draft which has been insisted upon shall be returned to the President of the Republic for promulgation, unless the President consults the citizens for their opinion by means of a referendum on the points of disagreement.
5. The referendum shall also be admissible when, without having reached the *quorum* of the insistence referred to in the previous paragraph, the Houses that are formed after the following parliamentary election insist with three fifths of the deputies and senators in office and the President of the Republic decides not to promulgate the part of the bill that has been the object of insistence.
6. The institutional law relating to the National Congress shall otherwise regulate the vetoes of reform bills and their processing.

### Article 210

1. The referendum shall be called within thirty days following the day on which both Houses insist on the draft approved by them, and shall be ordered by supreme decree setting the date of the vote, which shall be held one hundred and twenty days after the publication of the said decree if that day falls on a Sunday. If this is not the case, it shall be held on the Sunday immediately following. Once this period has elapsed without the President of the Republic calling a referendum, the bill approved by the National Congress shall be promulgated.
2. The decree of convocation shall contain, as the case may be, the draft approved by both Houses and totally vetoed by the President of the Republic, or the questions of the draft on which Congress has insisted, as provided for in clauses 4 and 5 of the preceding Article. In the latter case, each of the issues in disagreement shall be voted on separately in the referendum.
3. The Tribunal Calificador de Elecciones shall communicate the result of the referendum to the President of the Republic and shall specify the text of the project approved by the citizens, which shall be promulgated as a constitutional reform within five days of such communication.
4. Once the draft is promulgated and from the date of its entry into force, its provisions shall form part of the Constitution and shall be deemed to be incorporated therein.

## **Constitutional replacement procedure**

### **Article 211**

1. A procedure to replace the Constitution may only be initiated on the proposal of the President of the Republic and with the agreement of two-thirds of the members in office of the Chamber of Deputies and Deputies and of the Senate.
2. Such an agreement may only be approved if it also contains the following essential matters:
  - a) The institutional and fundamental bases to be contained in the proposal for a new Constitution.
  - b) The manner of election of a technical commission, which will draw up a draft proposal for a new constitution, the basic rules and maximum timeframe for its operation and the mechanisms for citizen participation that the process should consider.
  - c) The procedure to be followed by the technical commission in drawing up the preliminary draft and the *quorum* required for the adoption of its rules, which may in no case be less than three fifths of its members.
3. The agreement may not be adopted in the year of the presidential election or in time of war. 4. The preliminary draft prepared by the technical commission referred to in subsection 2 of this Article shall be submitted to the Chamber of Deputies and Deputies and then to the Senate, which shall submit it, as appropriate, to the procedures of a bill. The rules of the preliminary draft must be approved by two-thirds of the members in office in each Chamber.
5. In the event that the Chamber of Deputies and Deputies and the Senate approve the proposal, the bill thus dispatched shall not be enacted and shall await the next renewal of the Chamber of Deputies and Deputies. At the first session held by the Chamber of Deputies and the Senate, they shall each deliberate and vote on the text that has been approved, without being subject to any modification whatsoever. Only if it is ratified by two-thirds of the members in office of each branch of the new Congress shall it be communicated to the President of the Republic, who shall call a national constitutional plebiscite within three days of such communication, by means of an exempt supreme decree, in order that the electorate may express its opinion on the proposal.
6. Constitutional amendments modifying this article must be approved by two thirds of the deputies and senators in office.

## **TRANSITIONAL ARRANGEMENTS**

### **First**

This Constitution shall enter into force on the date of its publication in the Official Gazette, which must be made within ten days of its promulgation. As of this date, Supreme Decree No. 100 of 2005, which establishes the consolidated, coordinated and systematised text of the Political Constitution of the Republic of Chile, its subsequent constitutional reforms and its interpretative laws, shall be repealed, without prejudice to the rules contained in these transitional provisions.

### **Second**

1. All legislation in force at the date of publication of this Constitution shall remain in force until it is repealed, amended or replaced, or until it is declared contrary to the Constitution by the Constitutional Court, in appropriate cases and in accordance with the provisions of this Constitution.
2. It shall be understood that the laws currently in force referring to matters which, in accordance with this Constitution, must be the subject of institutional laws or special *quorums*, comply with the requirements established in this Constitution and shall continue to apply insofar as they are not contrary to it, until the corresponding legal bodies are enacted.

### **Third**

Persons who have served as members of the Constitutional Council, the Expert Commission or the Technical Committee on Admissibility, in accordance with constitutional reform law No. 21.533, may not be candidates in the next elections for President of the Republic, deputy, senator, regional governor, regional councillor, mayor and councillor. Likewise, they may not be candidates for any other popularly elected office in the first election corresponding to each office created by virtue of this Constitution.

### **Fourth**

The President of the Republic shall, within a period of five years from the entry into force of this Constitution, submit a draft law regulating the matter referred to in paragraph 3 of Article 6. Until such time as the said law enters into force, the President of the Republic shall, by supreme decree, designate

the ministry or ministries responsible for the enforcement of the judgements referred to in the said provision.

**Fifth**

The body referred to in paragraph 15 of Article 16 is the one regulated by Law No. 20.285, on access to public information, which, for these purposes, is understood to meet the requirement of having been approved by an institutional law.

**Sixth**

The President of the Republic shall, within a period of five years from the entry into force of this Constitution, submit a draft law to regulate the matter contained in section 16, subsection 17 thereof. Until such time as said law enters into force, the complaint shall be heard by the respective Court of Appeal, in accordance with the agreed order to be issued for this purpose.

**Seventh**

By virtue of the provisions of Article 16 (c) (22) of this Constitution, the obligatory nature of the second level of transition and the duty of the State to finance a free system starting at the lower secondary level, aimed at ensuring access to this and its higher levels, shall enter into force gradually, in the manner established by law.

**Eighth**

Large copper mining and the companies considered as such, nationalised by virtue of the provisions of the seventeenth transitory provision of the Political Constitution of 1925, ratified by the third transitory provision of the Political Constitution of 1980, whose consolidated, coordinated and systematised text was established by Supreme Decree No. 100 of 2005, shall continue to be governed by the constitutional rules in force on the date of promulgation of this Constitution.

**Ninth**

Water use rights constituted, recognised or regularised since the entry into force of Law No. 21.435 shall be governed by the rules established in the Water Code. Water use rights constituted, recognised or regularised prior to the publication of said law shall be governed by the first transitory article of the same.

**Tenth**

The President of the Republic shall, within five years of the entry into force of this Constitution, submit a draft law to establish the cases and the procedure for the revocation of the nationalization granted by grace provided for in Article 18(1)(d).

**Eleventh**

The President of the Republic shall, within a period of two years from the entry into force of this Constitution, submit one or more bills to regulate the procedures for the action for protection and the action for protection. Until such time as the regulations governing them enter into force, the orders issued by the Supreme Court for this purpose shall apply.

**Twelfth**

The President of the Republic shall, within a period of eighteen months from the entry into force of this Constitution, submit a draft institutional law amending Law No. 18.415, the constitutional law on states of emergency. Until such time as the corresponding legal body is passed, the current regulations shall continue to apply, insofar as they are not contrary to the Constitution.

**Thirteenth**

Until such time as the legal provisions relating to political parties and the Election Qualifying Court are adapted to the new constitutional regime, the procedure for the processing of appeals against decisions of the supreme courts of the political parties shall be regulated by one or more decrees issued by the Election Qualifying Court, which shall ensure, in any case, a rational and fair process.

**Fourteenth**

1. As long as the cause established in number 2 of article 56 of decree with force of law No. 4 of 2017, of the Ministry General Secretariat of the Presidency, which establishes the rewritten, coordinated and systematised text of law No. 18.603, constitutional organic law on political parties, is not modified, it shall not be applied, it being understood that political parties shall also be dissolved for not reaching two point five percent of the validly issued suffrages in the last election of deputies. The Tribunal Calificador de Elecciones shall communicate the count to the Servicio de Elecciones. Electoral, which shall determine whether the minimum requirement has been met. The abovementioned scrutiny shall be declaratory in nature.

2. For the purposes of the foregoing, the provisions of the second paragraph of Article 56 and the second paragraph of Article 57 of the aforementioned body of law shall be applicable.

**Fifteenth**

1. The provisions on penalties for non-payment and the procedure for their application, provided for in Laws Nos. 21.200, 21.448 and 21.533, shall remain in force.
2. Until such time as there is no law in accordance with Article 40, the provisions of Law No. 21.533 shall be deemed applicable to the matters referred to in the preceding paragraph.

**Sixteenth**

Until such time as the law is amended in accordance with Article 45(8), the following shall apply:

- a) The administration of the Electoral Service and the qualification by the Tribunal Calificador de Elecciones shall only apply to the internal elections of the executive and intermediate collegiate bodies of national rank.
- b) The Board of Directors of the Electoral Service shall regulate the administration of such internal elections by means of instructions, which may be challenged before the Tribunal Calificador de Elecciones.
- c) The procedure for the qualification of these elections shall be regulated by decrees issued by the Tribunal Calificador de Elecciones.

**Seventeenth**

The legal reform that adapts the institutional law of the National Congress for the creation of the Parliamentary Office of Public Finance and Regulatory Impact, according to the new constitutional regime, shall be presented within one year after the entry into force of this Constitution.

**Eighteenth**

Without prejudice to the provisions of Decree with force of law No. 2 of 2017, which establishes the consolidated, coordinated and systematised text of Law No. 18,700, Constitutional Organic Law on Popular Voting and Polling, the power of the Board of Directors of the Electoral Service referred to in article 189 of the aforementioned legal body, shall be exercised in April 2024, on the last official census carried out.

**Nineteenth**

Exceptionally, in order to gain access to parliamentary representation in the Chamber of Deputies and Deputies in the first election held since the entry into force of this Constitution, political parties must obtain at least four per cent of the votes validly cast at the national level or have enough seats to have at least four parliamentary representatives in the National Congress, among those eventually elected in that election of deputies and senators who continue in office until the next election.

**Twentieth**

Within the year following the entry into force of this Constitution, a draft electoral law shall be submitted to the National Congress, by message or motion, which shall provide for a mechanism for its integration, according to the following rules:

- a) The mechanism shall correct the preliminary distribution and allocation of seats, in elections of deputies and senators, when one sex exceeds sixty percent of those elected in the respective acts.
- b) Preliminary allocations of candidates of the over-represented sex shall yield in favour of candidates of the under-represented sex, until the ratio of the previous subparagraph is achieved.
- c) The mechanism shall operate first with respect to the candidates of the over-represented sex who received the lowest number of votes in the electoral pact or list with the lowest number of votes. The law shall seek to avoid reallocation from the candidates who were preliminarily elected on the lists or electoral pacts with the highest number of votes.
- d) The mechanism referred to in this article shall cease to be in force after the two parliamentary elections following the entry into force of the electoral law referred to in this article, or, if before the aforementioned period in the same parliamentary election, if there is none. The proportion referred to in subparagraph a) has been achieved in their respective election results.

**Twenty-first**

Pending publication of the law referred to in Article 89, the financial penalties referred to in paragraph 4 shall be not less than ten nor more than twenty-five percent of the monthly allowance, and shall be determined by the Ethics Committee of the respective House after a fair and rational procedure.

**Twenty-second**

The amendments to the rules of procedure of the Chamber of Deputies and the Senate, which are necessary to comply with the provisions of this Constitution, shall be made within one year of the publication of this Constitution.

**Twenty-third**

1. The law on the new public employment regime provided for in Article 112 of this Constitution shall be submitted to the National Congress within a maximum period of two years from the entry into force of this Constitution. This law shall be applicable to new appointments and promotions of civil servants referred to therein and made in the State Administration.

2. In any case, the law shall safeguard the rights of civil servants who, on the date of its entry into force, are on the payroll, without prejudice to establishing that these civil servants may voluntarily join the new public employment regime, in which case such civil servants shall be governed by the rules of the latter, and providing that vacancies occurring in these positions after the entry into force of this law shall be filled in accordance with the rules of the new public employment regime.

3. The law shall also regulate the transition to the new public employment regime for civil servants who, on the date of its entry into force, are subject to the current contract regime, as well as for those subject to the fee contract regime, in accordance with this Constitution.

**Twenty-fourth**

Within one year of the entry into force of this Constitution, the President of the Republic shall send a draft law to the National Congress identifying the functionally autonomous or independent technical public services provided for in article

113. The same bill will have to bring the respective laws into line with the requirements contained in that article.

**Twenty-fifth**

Until such time as the law referred to in Article 121(2) is enacted, the relevant regulatory provisions shall continue to apply.

**Twenty-sixth**

Pending the adaptation of Law No. 19.175, Constitutional Organic Law on Regional Government and Administration, the consolidated, coordinated and systematised text of which was established by Decree with force of law No. 1-19.175 of 2005 of the Ministry of the Interior, to the new constitutional regime, it shall be understood that the representatives of the President of the Republic in the various regions and provinces established in Article 140 are respectively the authorities of Chapters I and II of Title I of the aforementioned Decree with force of law.

**Twenty-seventh**

1. Postpone the elections of regional governors, regional councillors, mayors and councillors for the year 2028 to the last Sunday of April 2029.

2. Regional governors and regional councillors elected in 2024 shall cease to hold office on 6 July 2029.

3. Mayors and councillors elected in 2024 shall cease to hold office on 6 June 2029.

4. From 2029 onwards, and:

a) As long as article 99 bis of Law No. 19.175, Constitutional Organic Law on Regional Government and Administration, whose consolidated, coordinated and systematised text was established by Decree with the force of law No. 1-19.175 of 2005 of the Ministry of the Interior, has not been amended, it shall be understood that the regional councils are installed on 6 July of the year of the respective election.

b) As long as article 83 of Law No. 18.695, constitutional organic law on Municipalities, whose rewritten, coordinated and systematised text was established by decree with force of law No. 1, 2006, of the Ministry of the Interior, is not amended, it shall be understood that municipal councils are installed on 6 June of the year of the respective election.

**Twenty-eighth**

Within two years of the entry into force of this Constitution, the President of the Republic shall submit draft laws regulating the special statutes for the government and administration of Rapa Nui and the Juan Fernández Archipelago. Prior to the introduction of the first of these, a process of indigenous participation and consultation with the Rapa Nui people shall be carried out, in accordance with the legal framework in force.

**Twenty-ninth**

The draft institutional law regulating the body referred to in Article 159 shall be submitted by the President of the Republic to the National Congress within twenty-four months of the publication of the Constitution. Pending the entry into force of this law, these appointments shall be made in accordance with the regulations in force.

**Thirtieth**

The draft institutional law regulating the body referred to in Article 161 shall be submitted by the President of the Republic to the National Congress within eighteen months of the publication of the Constitution. Pending the entry into force of this law, these functions shall be exercised by the Administrative Corporation of the Judiciary, in accordance with Title XIV of Law No. 7.421, which establishes the Organic Code of the Courts.

**Thirty-first**

The draft institutional law regulating the body referred to in Article 162 shall be submitted by the President of the Republic to the National Congress within eighteen months of the publication of the Constitution. Pending the entry into force of this law, these functions shall be exercised in accordance with the regulations in force.

**Thirty-second**

The draft institutional law regulating the body referred to in Article 163 shall be submitted by the President of the Republic to the National Congress within eighteen months of the publication of the Constitution. Pending the entry into force of this law, these functions shall be exercised by the Judicial Academy, regulated by law No. 19.346.

**Thirty-third**

The draft law regulating the form and timing of the composition of the High Courts of Justice by substitute judges shall be submitted by the President of the Republic to the National Congress within eighteen months of the publication of the Constitution. Until such time as this law enters into force, the composition of these courts shall be made up of lawyers, in accordance with the regulations in force.

**Thirty-fourth**

The disciplinary system established in Article 162 shall only apply to proceedings the commencement of which takes place after the entry into force of the law referred to in that provision.

**Thirty-fifth**

The President of the Republic shall, within a period of five years from the promulgation of this Constitution, submit a draft law regulating the organisation and operation of the communal courts referred to in section 156, subsection 8, which shall be the successors of the local police courts.

**Thirty-sixth**

Until the law establishing the procedure to be followed for the public competition system referred to in Articles 159 and 161 is enacted, the procedure shall be carried out by the High Public Management Council in accordance with the procedure set out in Title VI of Law No. 19.882.

**Thirty-seventh**

1. Upon the entry into force of this Constitution, the ministers of the Constitutional Court who are regularly invested in their functions shall remain in office for the remainder of their term in accordance with the second and third paragraphs of article 92 of Supreme Decree No. 100, which establishes the consolidated, coordinated and systematised text of the Political Constitution of the Republic of Chile. Should any of them leave office early, they shall be replaced in accordance with the procedure established in this Constitution and their term of office shall last for the remainder of their predecessor's term, and they may be re-elected. The same rule shall apply to alternate members.

2. For the first appointments of members of the Constitutional Court, in accordance with Article 166, the following rules shall apply:

a) In 2024, two members of the total number of those due to leave office shall be replaced. One shall serve for nine years, the other for ten years, as determined by lot. This rule shall also apply to those ministers who were appointed in that year in accordance with the Constitution being replaced.

b) In order to comply with the rule of partial renewal at the rate of one every year, contained in paragraph 3 of Article 166, the new members of the Constitutional Court who replace the members of the Constitutional Court shall be appointed for periods of between seven and nine years, as appropriate, until a total renewal of nine-year periods is achieved, with one member being appointed every year.

c) When two judges of the Constitutional Court are replaced in the same year, the Senate shall draw lots among the elected candidates to determine their term of office, in accordance with the preceding paragraph.

d) The Constitutional Court may never have more than nine members.

**Thirty-eighth**

1. Proceedings currently before the Constitutional Court shall continue to be processed until they are fully disposed of, in accordance with the regulations established in Chapter VIII of Supreme Decree No. 100, which establishes the consolidated, coordinated and systematised text of the Political

Constitution of the Republic of Chile and Decree with force of law No. 5, of 2010, which establishes the consolidated, coordinated and systematised text of Law No. 17.997, the constitutional law of the Constitutional Court. The aforementioned law shall remain in force, with regard to the organisation, functioning, procedures and personnel regime of the Constitutional Court, until the entry into force of the institutional law of the Constitutional Court, in all that is not incompatible with the provisions of this Constitution.

2. For all legal purposes, the Constitutional Court shall be understood to be the successor of the Constitutional Tribunal.

#### **Thirty-ninth**

Upon the entry into force of this Constitution, the Constitutional Court shall cease to function and shall be dissolved as of right. The assets, rights and obligations of the Constitutional Court shall thereupon be transferred to the Constitutional Court without interruption, including its staff. In the case of its members, the provisions of the thirty-seventh transitional provision shall apply.

#### **Fortieth**

1. Within one year of the entry into force of this Constitution, the President of the Republic shall send the National Congress a bill to adapt Law No. 19.640, which establishes the constitutional organic law of the Public Prosecutor's Office, to the provisions of this text, considering the implementation of the High Complexity Prosecutor's Office, the Internal Affairs Prosecutor's Office and the Consultative Council of the Public Prosecutor's Office.

2. The constitutional regulations on the Public Prosecutor's Office, those specific to its respective institutional law and those that modify the Code of Criminal Procedure or the Organic Code of Courts, for the implementation of the High Complexity Prosecutor's Office and the Internal Affairs Prosecutor's Office, will be applied exclusively to facts whose beginning of execution is after the entry into force of such provisions.

#### **Forty-first**

Within one year of the entry into force of this Constitution, the President of the Republic shall send to the National Congress a bill to create the Victims' Access to Justice and Defence Service, bringing together in this single service all state programmes that incorporate legal advice and defence for victims, as well as psychological and social support.

#### **Forty-second**

Until such time as the National Congress passes the law regulating the procedure to be followed for the public competitive examination system indicated in articles 175(2), 177(3), 178(2) and 180(1)(e), it shall be conducted by the High Public Management Council in accordance with the procedure indicated in Title VI of Law No. 19.882. For its part, the procedure to be followed for the public competition system indicated in section 179, subsection 1, shall be governed by the regulations in force at the time of the entry into force of this Constitution.

#### **Forty-third**

The State of Chile recognises the jurisdiction of the International Criminal Court, in accordance with the Rome Statute and its amendments ratified by Chile. By making this recognition, Chile reaffirms its preferential power to exercise its criminal jurisdiction in relation to the jurisdiction of the International Criminal Court, whereby the latter shall be subsidiary to the former, under the terms provided for in the Rome Statute. The jurisdiction of the International Criminal Court may only be exercised with respect to crimes within its jurisdiction whose execution begins after the entry into force of the Rome Statute in Chile.

#### **Forty-fourth**

The persons currently serving as members of the Board of Directors of the Electoral Service, the Election Qualifying Tribunal and the regional electoral tribunals shall continue in their functions in accordance with articles 94 bis, 95 and 96 of Supreme Decree N° 100, which establishes the consolidated, coordinated and systematised text of the Political Constitution of the Republic of Chile, and shall cease to hold office once the period for which they were appointed has expired.

#### **Forty-fifth**

As soon as this Constitution enters into force, the President of the Republic shall send to the National Congress a bill to adapt Law No. 18,460, the constitutional organisation law of the Election Qualifying Tribunal. Until this comes into force, the member of the Election Qualifying Tribunal appointed in accordance with article 185, paragraph 3, subparagraph b), shall receive a remuneration equivalent to ten tax units per month for each session held, with a ceiling of fifty tax units per month during the month.



**Forty-sixth**

1. If at the date of entry into force of this Constitution an incumbent Comptroller General of the Republic is in office, he or she shall remain in office until the end of the term for which he or she was appointed or until he or she ceases to hold office.

2. If, on the entry into force of this Constitution, the post of Comptroller General of the Republic should be vacant, the rules laid down in Article 189 shall apply to his or her appointment. Such appointment shall be made within ninety days of the entry into force of this Constitution.

**Forty-seventh**

1. Within one year of the entry into force of this Constitution, the President of the Republic shall submit the draft laws necessary to establish the Court of Audit established in Article 191.

2. As from the entry into force of this Constitution, the authorities and officials serving in the Court of Audit of first instance referred to in Article 107 of Law No. 10.336, the consolidated, coordinated and systematised text of which was established by Supreme Decree No. 2.421 of 1964 of the Ministry of Finance, shall continue to exercise their jurisdiction exclusively until the Court of Audit created in Article 191 becomes operational.

3. Appeals lodged against judgments of first instance handed down in a trial of accounts shall continue to be heard and decided by the Court of Auditors of second instance, without prejudice to the system of appeals that may be established by law by the Court of Auditors. However, appeals which, as from the entry into force of this Constitution, are lodged against judgements of first instance in trials of accounts shall be heard by the Court of Appeal of Santiago. For all legal and constitutional purposes, it shall be understood that the Court of Appeal of Santiago shall be the successor of the Court of Audit of second instance, once the latter has ruled on the last pending appeal, at which time the Court of Audit of second instance shall be deemed to have been abolished.