

## **SPANISH CONSTITUTION**

*We, Don Juan Carlos I, King of Spain, announce to all those who may have knowledge of this,  
that: the Parliament has passed and the Spanish people have ratified the following Constitution:*

### **PREAMBLE**

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

Guarantee democratic coexistence within the Constitution and the laws, in accordance with a fair economic and social order.

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

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

Promote the progress of culture and of the economy to ensure a dignified quality of life for all.

Establish an advanced democratic society, and

Cooperate in the strengthening of peaceful relations and effective cooperation among all the peoples of the earth.

Therefore, the Parliament passes and the Spanish people ratifies the following

## **CONSTITUTION**

### **PRELIMINARY TITLE**

#### **Article 1**

1. Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as highest values of its legal system.

2. National sovereignty belongs to the Spanish people, from whom all state powers emanate.

3. The political form of the Spanish State is the Parliamentary Monarchy.

## **Article 2**

The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards, and it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed and the solidarity among them all.

## **Article 3**

1. Castilian is the official Spanish language of the State. All Spaniards have the duty to know it and the right to use it.

2. The other Spanish languages shall also be official in the respective Self-governing Regions in accordance with their Statutes.

3. The wealth of the different linguistic modalities of Spain is a cultural heritage which shall be specially respected and protected.

## **Article 4**

1. The flag of Spain consists of three horizontal stripes: red, yellow and red, the yellow strip being twice as wide as each red stripe.

2. The Statutes may recognize flags and ensigns of the Self-governing Regions. These shall be used together with the flag of Spain on their public buildings and in their official ceremonies.

## **Article 5**

The capital of the State is the city of Madrid.

## **Article 6**

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

## **Article 7**

Trade unions and employers associations contribute to the defence and promotion of the economic and social interests which they represent. Their creation and the exercise of their activities shall be free insofar as they respect the Constitution and the law. Their internal structure and their functioning must be democratic.

## **Article 8**

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

2. The basic structure of military organization shall be regulated by an Organic Act in accordance with the principles of this Constitution.

## **Article 9**

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

2. It is the responsibility of the public authorities to promote conditions ensuring that the freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.

3. The Constitution guarantees the principle of legality, the hierarchy of legal provisions, the publicity of legal statutes, the non-retroactivity of punitive provisions that are not favourable to or restrict individual rights, the certainty that the rule of law shall prevail, the accountability of public authorities, and the prohibition of arbitrary action of public authorities.

# **TITLE I**

## **Fundamental Rights and Duties**

## **Article 10**

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

2. Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain.

# **CHAPTER 1**

## **Spaniards and Aliens**

## **Article 11**

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

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

3. The State may negotiate dual nationality treaties with Latin-American countries or with those which have had or which have special links with Spain. In these countries Spaniards may become naturalized without losing their nationality of origin, even if those countries do not grant a reciprocal right to their own citizens.

#### **Article 12**

Spaniards come legally of age at eighteen years.

#### **Article 13**

1. Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.

2. Only Spaniards shall have the rights recognized in section 23, except in cases which may be established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, and subject to the principle of reciprocity.

3. Extradition shall be granted only in compliance with a treaty or with the law, on a reciprocal basis. No extradition can be granted for political crimes; but acts of terrorism shall not be regarded as such.

4. The law shall lay down the terms under which citizens from other countries and stateless persons may enjoy the right to asylum in Spain.

## **CHAPTER 2**

### **Rights and Freedoms**

#### **Article 14**

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

## **SECTION 1**

### **Fundamental Rights and Public Freedoms**

#### **Article 15**

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

## **Article 16**

1. Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no other restriction on their expression than may be necessary to maintain public order as protected by law.

2. No one may be compelled to make statements regarding his or her ideology, religion or beliefs.

3. No religion shall have a state character. The public authorities shall take into account the religious beliefs of Spanish society and shall consequently maintain appropriate cooperation relations with the Catholic Church and other confessions.

## **Article 17**

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

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

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

4. An habeas corpus procedure shall be provided for by law in order to ensure the immediate handing over to the judicial authorities of any person illegally arrested. Likewise, the maximum period of provisional imprisonment shall be determined by law.

## **Article 18**

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

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

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

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

## **Article 19**

Spaniards have the right to freely choose their place of residence, and to freely move about within the national territory. Likewise, they have the right to freely enter and leave Spain subject to the conditions to be laid down by the law. This right may not be restricted for political or ideological reasons.

## **Article 20**

1. The following rights are recognized and protected:
  - a) the right to freely express and spread thoughts, ideas and opinions through words, in writing or by any other means of reproduction.
  - b) the right to literary, artistic, scientific and technical production and creation.
  - c) the right to academic freedom.
  - d) the right to freely communicate or receive truthful information by any means of dissemination whatsoever. The law shall regulate the right to the clause of conscience and professional secrecy in the exercise of these freedoms.
- 2) The exercise of these rights may not be restricted by any form of prior censorship.
3. The law shall regulate the organization and parliamentary control of the mass communication media under the control of the State or any public agency and shall guarantee access to such media by the significant social and political groups, respecting the pluralism of society and the various languages of Spain.
4. These freedoms are limited by respect for the rights recognized in this Part, by the legal provisions implementing it, and especially by the right to honour, to privacy, to the own image and to the protection of youth and childhood.
5. The seizure of publications, recordings and other means of information may only be carried out by means of a court order.

#### **Article 21**

1. The right to peaceful unarmed assembly is granted. The exercise of this right shall not require prior authorization.
2. In the case of meetings in public places and of demonstrations, prior notification shall be given to the authorities, who can only forbid them when there are well founded grounds to expect a breach of public order, involving danger to persons or property.

#### **Article 22**

1. The right of association is granted.
2. Associations which pursue ends or use means legally defined as criminal offences are illegal.
3. Associations set up on the basis of this section must be entered in a register for the sole purpose of public knowledge.
4. Associations may only be dissolved or have their activities suspended by virtue of a court order stating the reasons for it.
5. Secret and paramilitary associations are prohibited.

#### **Article 23**

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

2. They also have the right to accede under conditions of equality to public functions and positions, in accordance with the requirements laid down by the law.

#### **Article 24**

1. All persons have the right to obtain effective protection from the judges and the courts in the exercise of their rights and legitimate interests, and in no case may there be a lack of defence.

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

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

#### **Article 25**

1. No one may be convicted or sentenced for actions or omissions which when committed did not constitute a criminal offence, misdemeanour or administrative offence under the law then in force.

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

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

#### **Article 26**

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

#### **Article 27**

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

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

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

4. Elementary education is compulsory and free.

5. The public authorities guarantee the right of all to education, through a general education program, with the effective participation of all sectors concerned and the setting-up of educational centres.

6. The right of individuals and legal entities to set up educational centres is recognized, provided they respect constitutional principles.

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

8. The public authorities shall inspect and standardize the educational system in order to ensure compliance with the laws.

9. The public authorities shall help the educational centres which meet the requirements established by the law.

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

### **Article 28**

1. All have the right to freely join a trade union. The law may restrict or exempt the exercise of this right in the Armed Forces or Institutes or other bodies subject to military discipline, and shall lay down the special conditions of its exercise by civil servants. Trade union freedom includes the right to set up trade unions and to join the union of one's choice, as well as the right of trade unions to form confederations and to found international trade union organizations, or to become members thereof. No one may be compelled to join a trade union.

2. The right of workers to strike in defence of their interests is recognized. The law governing the exercise of this right shall establish the safeguards necessary to ensure the maintenance of essential public services.

### **Article 29**

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

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

## **SECTION 2**

### **Rights and Duties of Citizens**

### **Article 30**

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

2. The law shall determine the military obligations of Spaniards and shall regulate, with all due guarantees, conscientious objection as well as other grounds for exemption

from compulsory military service; it may also, when appropriate, impose a community service in place of military service.

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

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

### **Article 31**

1. Everyone shall contribute to sustain public expenditure according to their economic capacity, through a fair tax system based on the principles of equality and progressive taxation, which in no case shall be of a confiscatory scope.

2. Public expenditure shall make an equitable allocation of public resources, and its programming and execution shall comply with criteria of efficiency and economy.

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

### **Article 32**

1. Man and woman have the right to marry with full legal equality.

2. The law shall make provision for the forms of marriage, the age and capacity for contracting it, the rights and duties of the spouses, the grounds for separation and dissolution, and their effects.

### **Article 33**

1. The right to private property and inheritance is recognized.

2. The social function of these rights shall determine the limits of their content in accordance with the law.

3. No one may be deprived of his or her property and rights, except on justified grounds of public utility or social interest and with a proper compensation in accordance with the law.

### **Article 34**

1. The right to set up foundations for purposes of general interest is recognized in accordance with the law.

2. The provisions of subsections 2 and 4 of section 22 shall also be applicable to foundations.

### **Article 35**

1. All Spaniards have the duty to work and the right to work, to the free choice of profession or trade, to advancement through work, and to a sufficient remuneration for the satisfaction of their needs and those of their families. Under no circumstances may they be discriminated on account of their sex.

2. The law shall regulate a Workers' Statute.

### **Article 36**

The law shall regulate the specific nature of the legal status of Professional Associations and the exercise of professions which require a higher education. The internal structure and the functioning of Professional Associations must be democratic.

### **Article 37**

1. The law shall guarantee the right to collective labour bargaining between the representatives of the workers and employers, as well as the binding force of the agreements.

2. The right of workers and employers to adopt collective labour dispute measures is hereby recognized. The law regulating the exercise of this right shall, without prejudice to the restrictions which it may impose, include the guarantees necessary to ensure the functioning of essential public services.

### **Article 38**

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

## **CHAPTER 3**

### **Principles governing Economic and Social Policy**

### **Article 39**

1. The public authorities ensure social, economic and legal protection of the family.

2. The public authorities likewise ensure full protection of children, who are equal before the law, regardless of their parentage, and of mothers, whatever their marital status. The law shall provide for the possibility of the investigation of paternity.

3. Parents must provide their children, whether born within or outside wedlock, with assistance of every kind while they are still under age and in other circumstances in which the law so establishes.

4. Children shall enjoy the protection provided for in the international agreements safeguarding their rights.

### **Article 40**

1. The public authorities shall promote favourable conditions for social and economic progress and for a more equitable distribution of regional and personal income within the framework of a policy of economic stability. They shall in particular carry out a policy aimed at full employment.

2. Likewise, the public authorities shall promote a policy guaranteeing professional training and retraining; they shall ensure labour safety and hygiene and shall provide for the need of rest by limiting the duration of the working day, by periodic paid holidays, and by promoting suitable centres.

#### **Article 41**

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

#### **Article 42**

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

#### **Article 43**

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

#### **Article 44**

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

#### **Article 45**

1. Everyone has the right to enjoy an environment suitable for the development of the person, as well as the duty to preserve it.
2. The public authorities shall watch over a rational use of all natural resources with a view to protecting and improving the quality of life and preserving and restoring the environment, by relying on an indispensable collective solidarity.
3. For those who break the provisions contained in the foregoing paragraph, criminal or, where applicable, administrative sanctions shall be imposed, under the terms established by the law, and they shall be obliged to repair the damage caused.

#### **Article 46**

The public authorities shall guarantee the preservation and promote the enrichment of the historical, cultural and artistic heritage of the peoples of Spain and of the property of which it consists, regardless of its legal status and its ownership. The

criminal law shall punish any offences against this heritage.

#### **Article 47**

All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the necessary conditions and establish appropriate standards in order to make this right effective, regulating land use in accordance with the general interest in order to prevent speculation. The community shall have a share in the benefits accruing from the town-planning policies of public bodies.

#### **Article 48**

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

#### **Article 49**

The public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration of the physically, sensorial and mentally handicapped by giving them the specialized care they require, and affording them special protection for the enjoyment of the rights granted by this Part to all citizens.

#### **Article 50**

The public authorities shall guarantee, through adequate and periodically updated pensions, a sufficient income for citizens in old age. Likewise, and without prejudice to the obligations of the families, they shall promote their welfare through a system of social services that provides for their specific problems of health, housing, culture and leisure.

#### **Article 51**

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

2. The public authorities shall promote the information and education of consumers and users, foster their organizations, and hear them on those matters affecting their members, under the terms established by law.

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

#### **Article 52**

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

### **CHAPTER 4**

## **Guarantee of Fundamental Rights and Freedoms**

### **Article 53**

1. The rights and freedoms recognized in Chapter 2 of this Part are binding on all public authorities. Only by law, which in any case must respect their essential content, can the exercise of such rights and freedoms be regulated, which shall be protected in accordance with the provisions of article 161(1) a).

2. Any citizen may assert a claim to protect the freedoms and rights recognized in section 14 and in Section 1 of Chapter 2, by means of a preferential and summary procedure before the ordinary courts and, when appropriate, by lodging an individual appeal for protection (*recurso de amparo*) to the Constitutional Court. This latter procedure shall be applicable to conscientious objection as recognized in article 30.

3. Recognition, respect and protection of the principles recognized in Chapter 3 shall guide legislation, judicial practice and actions by the public authorities. They may only be invoked before the ordinary courts in accordance with the legal provisions implementing them.

### **Article 54**

An organic act shall regulate the institution of the Ombudsman (*Defensor del Pueblo*), as high commissioner of the Spanish Parliament (*Cortes Generales*), appointed by it to defend the rights contained in this Part; for this purpose he or she may supervise the activity of the Administration and report thereon to the Spanish Parliament.

## **CHAPTER 5**

### **Suspension of Rights and Freedoms**

### **Article 55**

1. The rights recognized in articles 17 and 18, sections 2 and 3, articles 19 and 20, section 1, paragraphs a) and d), and 5; articles 21 and 28, section 2, and article 37, section 2, may be suspended when a state of emergency or siege (martial law) is declared under the terms provided in the Constitution. Section 3 of article 17 is exempted from the foregoing provisions in the event of the declaration of a state of emergency.

2. An organic act may determine the manner and the circumstances in which, on an individual basis and with the necessary participation of the courts and proper parliamentary control, the rights recognized in article 17, section 2, and 18, sections 2 and 3, may be suspended for specific persons in connection with investigations of the activities of armed bands or terrorist groups.

Unwarranted or abusive use of the powers recognized in the foregoing organic act shall give rise to criminal liability as a violation of the rights and freedoms recognized by the laws.