

ORGANIC LAW 2/1979 ON THE CONSTITUTIONAL COURT, OF 3 OCTOBER 1979*

As amended by the Organic Laws 8/1984, December 26th; 4/1985, June 7th; 7/1988, June 9th; 7/1999, April 21st; 1/2000, January 1st; 6/2007, May 24th; 1/2010, February 19th; 8/2010, November 4th; 12/2015, September 22nd and 15/2015, October 16th.

TITLE I

ON THE CONSTITUTIONAL COURT

Chapter I

Organisation and powers of the Constitutional Court

Article 1

1. The Constitutional Court, as supreme interpreter of the Constitution, is independent of the other constitutional bodies and subject only to the Constitution and this organic Law.

2. The Constitutional Court is unique and its jurisdiction covers the whole national territory.

Article 2

1. The Constitutional Court shall have jurisdiction, in the circumstances and form laid down by this Law:

a) in any action or question relating to the unconstitutionality of laws, legislative provisions or enactments having the force of law;

b) in any amparo appeal (*recurso de amparo*) set forth under Article 53.2 of the Constitution;

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

d) in conflicts between the constitutional bodies of the State;

d bis) in any conflicts in defence of local self-government¹;

e) in any declaration concerning the constitutionality of international treaties²;

e bis) in any preliminary action of unconstitutionality set forth under Article 69 of this organic law.³

f) in contestations within the scope of Article 161, number 2 of the Constitution;

g) in the scrutiny of appointments of Judges of the Constitutional Court in order to determine whether they fulfil the conditions laid down by the Constitution and this Law;

h) in any other matter referred to it by the Constitution and by organic laws.

* This is a non-official translation that aims at providing the content of the Organic Law to the interested public.

¹ Paragraph drafted in accordance with the Organic Law 7/1999.

² Paragraph drafted in accordance with the Organic Law 4/1985.

³ Paragraph drafted in accordance with the Organic Law 12/2015.

2. The Constitutional Court may establish rules governing its own functioning and organisation and the organisation of its staff and services within the framework of this Law. Such rules, which must be approved by the full Court, shall be published in the “Official State Gazette” (*Boletín Oficial del Estado*) with the authorisation of its President.

Article 3

The Constitutional Court shall have jurisdiction to hear and give a ruling on preliminary and interlocutory issues (*cuestiones prejudiciales e incidentales*) of a non-constitutional nature having a direct bearing on the matter before it, solely for the purpose of assessing the constitutionality of that matter.

Article 4⁴

1. Under no circumstances issues of jurisdiction or competence may be raised before the Constitutional Court. The Constitutional Court shall define the scope of its jurisdiction and shall take all necessary measures to preserve it, including the declaration of nullity of acts or decisions that undermine it; shall also examine its competence or incompetence *motu proprio* or at the request of the parties.

2. Constitutional Court decisions may not be reviewed by any domestic law court of the State.

3. When the Constitutional Court annuls an act or decision contravening the two preceding paragraphs it has to be made reasoned and after hearing the Public Prosecutor Office and the body which delivered the act or decision.

Article 5

The Constitutional Court shall consist of twelve members bearing the title of Judges (*Magistrados*) of the Constitutional Court.

Article 6

1. The Constitutional Court shall sit as a full Court (*Pleno*), Chambers (*Salas*) or Sections (*Secciones*)⁵.

2. The full Court shall consist of all Judges of the Court. It shall be chaired by the President of the Court or, in his absence, by the Vice-President, or in the absence of the latter, by the Judge ranking highest in seniority of tenure and, in the event of equal seniority, by the eldest.

Article 7

1. The Constitutional Court shall consist of two Chambers. Each Chamber shall comprise six Judges appointed by the full Court.

⁴ Article drafted in accordance with the Organic Law 6/2007.

⁵ Paragraph drafted in accordance with the Organic Law 6/2007.

2. The President of the Court shall also be President of the First Chamber which, in his absence, shall be chaired by the Judge ranking highest in seniority and, in the event of equal seniority, by the eldest.

3. The Vice-President of the Court shall chair over the Second Chamber which, in his absence, shall be chaired by the Judge ranking highest in seniority and, in the event of equal seniority, by the eldest.

Article 8⁶

1. The full Court and the Chambers shall establish Sections, comprising their respective President or his substitute and two Judges for the ordinary arrangements and the judgment or proposal, as appropriate, on the admissibility or rejection of constitutional processes.

2. The full Court shall be noticed about admission and rejection proposals in procedures of its competence. For admission, the full Court may defer to the appropriate Chamber the procedure in question, as provided by this Law.

3. The Sections shall hear and decide about Amparo appeals that the appropriate Chamber defers as provided by this Law.

Article 9

1. The President of the Court is elected by the full Court from among its members by secret ballot and appointed by the King.

2. An absolute majority shall be required in the first ballot. If it is not obtained, a second ballot shall be held, in which the Judge obtaining the most votes shall be elected. In the event of a tie, a final ballot shall be held. If that proves also inconclusive, the Judge ranking highest in seniority of tenure or, in the event of equal seniority, the eldest shall be nominated.

3. The name of the nominee shall be submitted to the King for appointment for a three-year term, at the end of which he shall be eligible for re-election once only.

4. The full Court shall elect from among its members, in accordance with the procedure described in paragraph 2 of this Article and also for a three-year term, a Vice-President who shall replace the President in the event of vacancy or absence or for any other reason, and who shall chair over the Second Chamber.

Article 10⁷

1. The full Court shall have jurisdiction in the following matters:

a) Constitutionality or unconstitutionality of international treaties.

b) Constitutional review of laws and other regulations having the force of law, others than mere case-law application, of which knowledge may be deferred to the Chambers at the moment of the admission of the appeal. Assuming the Chambers the knowledge of the appeal; the full Court shall mark the applicable case-law.

⁶ Article drafted in accordance with the Organic Law 6/2007.

⁷ Article drafted in accordance with the Organic Law 6/2007.

- c) Questions of constitutionality which assumes, the others shall be deferred to the Chambers according to an objective turn.
 - d) In constitutional conflicts of jurisdiction between the State and the Autonomous Communities or between the Autonomous Communities themselves.
 - d *bis*) In any preliminary action of unconstitutionality against Drafts of Statutes of Autonomy and reform proposals of the Statutes of Autonomy.⁸
 - e) In contestations within the scope of Article 161, number 2 of the Constitution.
 - f) In conflicts in defence of local self-government.
 - g) In conflicts between the constitutional bodies of the State.
 - h) Annulments in defence of the Court's jurisdiction provided in Article 4.3.
 - i) Scrutiny of compliance with the formalities required for the appointment of Judges of the Constitutional Court.
 - j) Appointment of Judges to serve in either of the two Chambers.
 - k) In recusals of the Judges of the Constitutional Court.
 - l) Dismissal of the Judges of the Constitutional Court in the circumstances provided for in Article 23 of this Law.
 - m) Adoption and reform of the Court's rules.
 - n) Any other matter within the Court's jurisdiction brought before it by the Plenary on the recommendation of the President or three Judges, and any other matters assigned to it explicitly by an organic law.
2. In the cases provided by letters d), e) and f) of the preceding paragraph, at the moment of the admission, the decision on the content can be attributed to the appropriate Chamber following an objective turn, which shall be communicated to the parties.
3. The full Court, in exercise of its autonomy as a constitutional body, prepares its budget, which is integrated as an independent chapter within the general State Budget.

Article 11

1. The Chambers of the Constitutional Court shall hear cases which, belonging to the constitutional justice, fall outside the jurisdiction of the full Court.
2. The Chambers shall also hear cases which have been referred to the corresponding Sections but which they consider of sufficient importance to require a ruling by the Chamber itself.

Article 12

Cases shall be attributed to the Chambers following the turn established by the full Court on the proposal of the President.

Article 13

⁸ Paragraph drafted in accordance with the Organic Law 12/2015.

When a Chamber considers necessary to change on any point the constitutional case-law previously established by the Court, the matter shall be submitted to the full Court's decision.

Article 14

The full Court may give a ruling when at least two-thirds of its members are present at that particular time. The rulings of the Chambers shall also require the presence of two-thirds of their respective members at that particular time. In the case of the Sections, the presence of two members shall be necessary, except in the case of a difference of opinion when the presence of all three members shall be required.

Article 15⁹

The President of the Constitutional Court represents and convenes the Court, chairs over its Plenary and convenes the Chambers; takes appropriate steps to ensure the functioning of the Court, the Chambers and the Sections; informs the Houses [of the Parliament], the Government and the General Council of the Judiciary of any vacancy that occurs; appoints counsels, announces competitions to fill the seats of the officials and personal staff position and exercises administrative authority over the staff of the Court.

Chapter II

The Judges of the Constitutional Court

Article 16¹⁰

1. The Judges of the Constitutional Court shall be appointed by the King on the proposal of the Houses, the Government and the General Council of the Judiciary in accordance with the conditions laid down in Article 159.1 of the Constitution.

The Judges proposed by the Senate shall be elected among candidates submitted by Legislative Assemblies of the Autonomous Communities in the terms provided by the House's Rules.

2. The candidates proposed by the Congress and the Senate must appear previously before the appropriate Committee in the terms provided by the respective Houses' Rules.

3. The term of office of a Judge of the Constitutional Court shall be nine years, one third of the Court being renewed every three years. From that moment on the President and the Vice-President shall be elected as provided in Article 9. If the three year term for which they were appointed as President and Vice-President does not coincide with the renewal of the Constitutional Court, such term of office shall be extended to the end at the time of such renewal occurs and the new Judges take up the post.

4. No Judge may be nominated to the King for a second consecutive term unless he or she had held office for the period of not more than three years.

⁹ Article drafted in accordance with the Organic Law 6/2007.

¹⁰ Paragraphs 1 to 4 drafted in accordance with the Organic Law 6/2007.

5. Vacancies that occur for reasons other than the expiration of the period for which appointments are made will be covered by the same procedure for the appointment of the Judge who had caused the vacancy and for the remaining term of office. In case of a delay in the renewal by thirds of the Judges, the time delay in the renewal shall be reduced from the term of office of those appointed¹¹.

Article 17

1. Four months before the date of expiry of the appointments, the President of the Court shall invite the Presidents of the bodies responsible for nominating new Judges to initiate the statutory procedure.

2. The Judges of the Constitutional Court shall remain in office until their successors take up office.

Article 18

The members of the Constitutional Court shall be appointed from among Spanish citizens who are judges, members of the Public Prosecutor Office, university professors, public officials or lawyers, and who are in all cases jurists of recognised standing with more than fifteen years' experience in their respective profession or office.

Article 19

1. The office of Judge of the Constitutional Court shall be incompatible: firstly, with that of Ombudsperson (*Defensor del Pueblo*); secondly, with that of Deputy or Senator; thirdly, with any other political or administrative office in the State, the Autonomous Communities, the provinces or any other local entities; fourthly, with any jurisdictional function or any activity whatsoever associated with judicial service or the Public Prosecutor Office; fifthly, with any form of employment in the courts of any other jurisdiction; sixthly, with management responsibilities in political parties, trade unions, associations, foundations and professional boards and with any form of employment in their service; seventhly, with professional and commercial activities. In the remaining, the incompatibilities that apply to members of the Judiciary shall also be applicable to the members of the Court.

2. When a ground of incompatibility exists in the case of a person nominated as Judge of the Court, that person shall resign from the incompatible position or activity before taking up office. Failure to do so within the ten days following nomination shall be taken to denote non-acceptance of the office of Judge of the Constitutional Court. The same rule shall be applicable in any cases of incompatibility that may arise.

Article 20¹²

Members of the Judiciary and the Public Prosecutor Office and, in general, public servants appointed Judges and counsels (*Letrados*) of the Court shall be placed on special temporary release (*servicios especiales*) from their former career.

¹¹ Paragraph introduced by the Organic Law 8/2010.

¹² Article drafted in accordance with the Organic Law 6/2007.

Article 21

On taking office, the President and the other Judges of the Constitutional Court shall deliver the following oath or pledge before the King:

“I swear (or pledge) faithfully and at all times to uphold and to ensure that it is upheld the Spanish Constitution, allegiance to the Crown and to perform my duties as a Constitutional Judge.”

Article 22

The Judges of the Constitutional Court shall perform their duties in accordance with the principles of impartiality and dignity that are inherent to their office; they cannot be prosecuted for opinions expressed in the exercise of their duties; they shall be irremovable and may be dismissed or suspended only on one of the grounds established by this Law.

Article 23

1. The following shall be grounds for dismissal of Judges of the Constitutional Court: firstly, resignation accepted by the President of the Court; secondly, expiry of their term of office; thirdly, existence of any of the grounds of disability applicable to members of the Judiciary; fourthly, any incompatibility that may arise; fifthly, failure to perform the duties of their office with the requisite diligence; sixthly, failure to maintain the reserve pertaining to their office; seventhly, being found responsible in civil proceedings for malicious acts or being convicted of a malicious or a seriously negligent crime.

2. The ending or vacancy of the office of Judge of the Constitutional Court shall be decreed by the President in the first and second cases as well as in the event of decease. In the other cases, the full Court shall rule by a simple majority in the third and fourth cases and by a three-quarters majority of its members in all other cases.

Article 24

Judges of the Constitutional Court may be suspended by the Court, as a preliminary measure, in cases of indictment or to allow the time indispensable to establish whether any of the grounds for termination defined in the previous Article exists. Suspension must be approved by three quarters of the members composing the full Court.

Article 25

1. Judges of the Constitutional Court having served a minimum of three years shall be entitled to a one-year transitional allowance equivalent to that accruing to them on leaving office.

2. When a Judge of the Court belongs to any corps of officials with a pension entitlement, the amount thereof shall be determined by calculating the time spent in the performance of constitutional duties, taking into account the overall remuneration accruing to the Judge of the Constitutional Court during the final year.

Article 26

The criminal liability of Judges of the Constitutional Court shall be enforceable before the Criminal Chamber of the Supreme Court only.

TITLE II

PROCEDURES FOR A DECLARATION OF UNCONSTITUTIONALITY

Chapter I

General provisions

Article 27

1. Through the procedures for a declaration of unconstitutionality established in this title, the Constitutional Court guarantees the primacy of the Constitution and determines the conformity or non-conformity therewith of contested laws, provisions or enactments.

2. A declaration of unconstitutionality may be issued in respect of the following:

- a) Statutes of Autonomy and other organic laws.
- b) Other State laws, regulations and enactments having the force of law. In the case of legislative decrees (*decretos legislativos*), the Court's jurisdiction shall be exercised notwithstanding to the provisions of Article 82, number 6, of the Constitution.
- c) International treaties.
- d) Rules of Procedure of the Houses and of the Spanish Parliament (*Cortes Generales*).
- e) Laws, enactments and regulations having the force of law of the Autonomous Communities, subject to the same reservation as under sub-paragraph b above with respect to cases of legislative delegation.
- f) Rules of Procedure of the legislative Assemblies of the Autonomous Communities.

Article 28

1. In order to determine the conformity or non-conformity with the Constitution of a law, regulation or enactment having the force of law issued by the State or the Autonomous Communities, the Court shall consider, in addition to constitutional precepts, any laws enacted within the framework of the Constitution for the purpose of delimiting the powers of the State and the individual Autonomous Communities or of regulating or harmonizing the exercise of their powers.

2. Furthermore, the Court may declare unconstitutional, on grounds of infringement of Article 81 of the Constitution, the provisions of a decree-law, a legislative decree, or a law other than an organic law or an enactment of an Autonomous Community, where such provisions regulate matters reserved for an organic law or entail an amendment to or a derogation from such an law, irrespective of its content.

Article 29

1. A declaration of unconstitutionality may be issued in response to:
 - a) an action of unconstitutionality (*recurso de inconstitucionalidad*);
 - b) a question of unconstitutionality (*cuestión de inconstitucionalidad*) raised by judges or law courts.
2. The dismissal, on grounds of form, of an action of unconstitutionality against a law, regulation or enactment having the force of law, shall not impede the raising of a question of unconstitutionality with respect to such law, regulation or enactment in other legal proceedings.

Article 30

The admission of an action or question of unconstitutionality shall not suspend the entry into force or the enforcement of the contested law, regulation or enactment having the force of law save where the Government invokes the provisions of Article 161.2 of the Constitution to challenge, through its President, laws, regulations or enactments having the force of law of the Autonomous Communities.

Chapter II

Action of unconstitutionality

Article 31

An action of unconstitutionality against laws, regulations or enactments having the force of law may be brought from the date of their official publication.

Article 32

1. The following have standing to bring an action of unconstitutionality against Statutes of Autonomy and other State laws, organic or of any character whatsoever, against regulations and enactments of the State or Autonomous Communities having the force of law, and against international treaties and the Rules of Procedure of the Houses and the Spanish Parliament:
 - a) the President of the Government;
 - b) the Ombudsperson;
 - c) fifty Deputies;
 - d) fifty Senators.
2. The executive collegiate bodies and the Assemblies of the Autonomous Communities, following prior agreement to that effect, shall also have standing to bring an action of unconstitutionality against State laws, provisions or enactments having the force of law that may affect their own area of autonomy.

Article 33¹³

1. An action of unconstitutionality shall be brought within three months of the date of publication of the contested law, provision or enactment having the force of law, in the form of an application to the Constitutional Court stating the identity of the individuals or bodies bringing the action and, where appropriate, their representatives, specifying the wholly or partially contested law, provision or enactment, and indicating the constitutional precept that is deemed to have been violated.

2. Nevertheless the provisions of the previous paragraph, the President of the Government and the collegiate executive organs of the Autonomous Communities may raise an action of unconstitutionality within the deadline of nine months concerning laws, regulations and enactments having the force of law, provided that, with the purpose of avoiding the controversy, the following requirements are fulfilled:

a) That a meeting of the Bilateral Commission of Cooperation between the General Administration of the State and the respective Autonomous Community takes place, at the request of any of the two Administrations.

b) That the aforementioned Bilateral Commission reaches an agreement about the initiation of negotiations to solve the discrepancies, being able to demand the reform of law, when appropriate. This agreement may refer to the petition of suspension of the law in case that the action of unconstitutionality might be raised in the term foreseen in this paragraph.

c) That the Constitutional Court is informed about the agreements reached by the organs previously mentioned; this information must take place within three months after the publication of the law, regulation and enactment having the force of law and be included in the “Official State Gazette” and in the “Official Gazette” of the concerned Autonomous Community.

3. The provisions of the previous paragraph must be understood without prejudice of the faculty of submission of the action of unconstitutionality by the other bodies and persons mentioned in Article 32.

Article 34

1. If the application is declared admissible, the Constitutional Court, following the prescribed procedure, shall transmit it to the Congress of Deputies and the Senate through their Presidents, to the Government through the Ministry of Justice and, where the action concerns a law or provision having the force of law promulgated by an Autonomous Community, to its legislative and executive bodies so that they can attend the proceedings and put forward such arguments as they deem appropriate.

2. There shall be a deadline of fifteen days for appearance before the Court and presentation of pleadings. Upon expiry of that deadline, the Court shall deliver its judgement within ten days, save where, based on a reasoned decision, the Court deems that circumstances require an extension which shall in no circumstances exceed thirty days.

Chapter III

¹³ Article drafted in accordance with the Organic Law 1/2000.

Question of unconstitutionality raised by judges and law courts

Article 35

1. Where a judge or a court, *proprio motu* or at the request of a party, considers that an enactment having the force of law which is applicable to a case and on which the validity of the ruling depends may be contrary to the Constitution, the judge or court shall raise the question before the Constitutional Court in accordance with the provisions of this Law.

2. The judicial body may raise the question only on completion of the proceedings and within the prescribed deadline for delivering its judgement, or the appropriate judicial resolution, by specifying the law or enactment having the force of law whose constitutionality is contested and the constitutional provision that is deemed to have been violated, and by indicating with supporting evidence the extent to which the pending judgement depends on the validity of the enactment in question. Before delivering its final judgement, the judicial body shall hear the parties and the Public Prosecutor Office so that, within a joint deadline of ten days that may not be extended, they can put forward such arguments as they see fit regarding the appropriateness of raising a question of unconstitutionality, or on its content, whereupon the judge shall give a ruling without further process within three days. That ruling may not be appealed. However, the question of unconstitutionality may be raised again at successive stages of the proceedings or in higher courts until such time as a judgement not subject to appeal has been delivered¹⁴.

3. The raise of the question of unconstitutionality shall cause the temporary suspension of the proceedings on judicial procedure until the Constitutional Court decides on its admission¹⁵.

Article 36

The judicial body shall lay the question of unconstitutionality before the Constitutional Court together with a certification of the records in the main proceedings and the arguments provided for in the previous Article, where they exist.

Article 37

1. When the Constitutional Court has received all the documents, the proceedings shall be conducted in accordance with the procedure described in paragraph 2 of this Article. However, the Court may, at the moment of the admission, dismiss the question of unconstitutionality by an order issued solely after hearing the General Public Prosecutor where the requisite conditions for the action are lacking or where the question raised is manifestly unfounded. Any such decision shall be reasoned.

2. Published in the “Official State Gazette”, the admissibility of the question of unconstitutionality, those who are party of the judicial procedure may appear before the Constitutional Court within fifteen days after its publication, to plead, within another fifteen days¹⁶.

¹⁴ Paragraph drafted in accordance with the Organic Law 6/2007.

¹⁵ Paragraph drafted in accordance with the Organic Law 6/2007.

¹⁶ Paragraph drafted in accordance with the Organic Law 6/2007.

3. The Constitutional Court shall communicate the question to the Congress of Deputies and the Senate through their Presidents, to the General Public Prosecutor, to the Government through the Ministry of Justice and, where it concerns a law or other enactment having the force of law of an Autonomous Community, to the legislative and executive bodies of that Community; all parties may appear before the Court and put forward arguments concerning the question raised within a jointly applicable deadline of fifteen days which may not be extended. On expiry of that deadline, the Court shall deliver its judgement within fifteen days, save where, based on a reasoned decision, the Court deems that circumstances require an extension which shall not exceed thirty days.

Chapter IV

The judgement in unconstitutionality proceedings and its consequences

Article 38

1. Judgements handed down in unconstitutionality proceedings shall have the force of *res judicata*, shall be binding on all public authorities and shall have consequences of a general nature from the date of their publication in the “Official State Gazette”.
2. The judgements deciding the dismissal of actions of unconstitutionality or conflicts in defence of local self-government shall foreclose the possibility of raising the matter subsequently through these same channels based on infringement of an identical constitutional provision¹⁷.
3. In the case of judgements handed down on questions of unconstitutionality, the Constitutional Court shall immediately inform the judicial authority responsible for giving a ruling in the proceedings. That body shall report the constitutional judgement to the parties. The judge or the court shall be bound from the time of taking cognisance of the constitutional judgement and the parties from the time of being notified thereof.

Article 39

1. Where the judgement declares the unconstitutionality, it shall also declare invalid the contested provisions and, where appropriate, any other provisions of the same law, regulation or enactment having the force of law to which it must be extended by association or consequence.
2. The Constitutional Court may ground the declaration of unconstitutionality on the violation of any constitutional provision, regardless of whether it was invoked during the proceedings.

Article 40

1. Judgements that declare the unconstitutionality of laws, regulations or enactments having the force of law shall not provide grounds for review of proceedings concluded by means of a judgement having force of *res judicata* in which unconstitutional laws, regulations or enactments were applied, save in the case of criminal proceedings or administrative litigation concerning a sanction procedure where the nullity of the rule

¹⁷ Paragraph drafted in accordance with the Organic Law 7/1999.

applied would entail a reduction of the penalty or sanction or exclusion, exemption or limitation of liability.

2. At all events, the case-law of the law courts relating to laws, regulations and enactments adjudicated by the Constitutional Court shall be amended by the doctrine resulting from judgements and reasoned orders (*autos*) that resolve constitutional processes.¹⁸

TITLE III

THE AMPARO APPEAL (*RECURSO DE AMPARO*)

Chapter I

Grounds and filing of the Amparo appeal

Article 41

1. The rights and freedoms recognised in Articles 14 to 29 of the Constitution shall be secured by Amparo appeal in the circumstances and form laid down by this Law, without prejudice to the general guardianship thereof entrusted to the law courts. The same protection shall be accorded to conscientious objection as recognised in Article 30 of the Constitution.

2. The Amparo appeal shall be available, in accordance with the provisions of this Law, against violations of the rights and freedoms referred to in the previous paragraph resulting from provisions, legal enactments, omissions or flagrantly illegal actions (*vía de hecho*) by the public authorities of the State, the Autonomous Communities and other territorial, corporate or institutional public bodies, as well as by their officials or agents.¹⁹

3. For the purposes of constitutional protection, no claims may be asserted other than those designed to restore or preserve the rights or freedoms for which the action has been brought.

Article 42

Decisions or enactments without the force of law taken by the Spanish Parliament or any of its organs or by the legislative Assemblies of the Autonomous Communities or their organs, which violate rights and freedoms protected by the Constitution, may be the subject of legal action within a period of three months following the time when they were final and conclusive, in accordance with the rules of procedure of the Houses or the Assemblies.

Article 43

1. The above-mentioned violations of rights and freedoms resulting from provisions, legal enactments, omissions or flagrantly illegal actions by the Government, its authorities, or its officials or by the executive bodies of the Autonomous Communities

¹⁸ Paragraph drafted in accordance with the Organic Law 6/2007.

¹⁹ Paragraph drafted in accordance with the Organic Law 6/2007.

or their authorities, officials or agents, may provide grounds for an Amparo appeal when the relevant judicial remedy has been exhausted.²⁰

2. The deadline for lodging an Amparo appeal shall be twenty days from the date of notification of the ruling given in the previous legal proceedings.

3. Such an appeal may be based solely on an infringement, by a non-appealable decision, of the constitutional precepts recognizing protected rights and freedoms.

Article 44²¹

1. Violations of constitutionally protected rights and freedoms that are the immediate and direct result of an act or omission by a judicial body may give grounds for such an appeal provided that the following conditions are met:

a) All the remedies envisaged by the procedural rules must be exhausted for the specific case within judicial channel.

b) That the violation of the right or freedom is immediately and directly attributable to an act or omission by the judicial body regardless of the circumstances that led to the proceedings in which it occurred, which shall in no circumstances be adjudicated by the Constitutional Court;

c) The violation of the constitutional right must be formally reported, if there was an opportunity, as soon as, once known, would have room for it.

2. The deadline for lodging an Amparo appeal shall be thirty days from the date of notification of the ruling given in the judicial proceedings.

Article 45²²

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Article 46

1. The following shall have standing to lodge an Amparo appeal:

a) In the case of Articles 42 and 45, the person directly concerned, the Ombudsperson and the Public Prosecutor Office.

b) In the case of Articles 43 and 44, the parties to the corresponding judicial proceedings, the Ombudsperson and the Public Prosecutor Office.

2. Where the appeal is brought by the Ombudsperson or the Public Prosecutor Office, the Chamber of the Court with authority to hear the case for constitutional protection shall inform any potentially damaged persons of whom it has knowledge and shall order publication of the notice of appeal in the "Official State Gazette" so that other interested parties may appear in the proceedings. Such publication shall have preferential status.

Article 47

²⁰ Paragraph drafted in accordance with the Organic Law 6/2007.

²¹ Article drafted in accordance with the Organic Law 6/2007.

²² Without content after Organic Law 8/1984.

1. Those benefited by the decision, act or fact that led to the appeal or persons with a legitimate interest therein may appear in the proceedings for constitutional protection as a defendant or additional party.
2. The Public Prosecutor Office shall intervene in all protection proceedings in defence of legality, citizens' rights and the public interest protected by law.

Chapter II

On procedure in Amparo appeals

Article 48²³

Amparo appeals shall be heard by the Chambers of the Constitutional Court and, when appropriate, by the Sections.

Article 49²⁴

1. Amparo appeals shall be initiated by an application setting out clearly and concisely the circumstances on which they are based, mentioning the constitutional provisions that are deemed to have been violated and giving details of the protection sought with a view to preserving or restoring the allegedly violated right or freedom. In any case, the application shall justify the special constitutional significance (*especial transcendencia constitucional*) of the appeal.
2. The application shall be accompanied by:
 - a) The document mandating the representative of the applicant;
 - b) Where appropriate, a copy, notification or certificate of the decision that terminated the judicial or administrative proceedings.
3. The application shall also be accompanied by as many authenticated copies thereof as there were parties to the previous proceedings, as well as, when appropriate, a copy for the Public Prosecutor Office.
4. If any of the requirements of the preceding paragraphs are breached, the Secretary of Justice shall inform the person concerned within ten days, with the warning that, if the defect is not rectified, the appeal shall be rejected.

Article 50²⁵

1. The Amparo appeal is submitted to a decision of admissibility. The Section, by unanimous vote, shall agree the admission of the appeal in whole or in part by non-reasoned order (*providencia*), only where the following requirements concur:
 - a) The application fulfils the requirements set on Articles 41 to 46 and 49.
 - b) That the case in appeal justifies a decision about the content by the Constitutional Court because of its special constitutional significance (*especial transcendencia*

²³ Article drafted in accordance with the Organic Law 6/2007.

²⁴ Article drafted in accordance with the Organic Law 6/2007.

²⁵ Article drafted in accordance with the Organic Law 6/2007.

constitucional), which shall be seen in terms of its relevance for the interpretation and application of the Constitution, or for the effectiveness thereof, and for determining the content or scope of fundamental rights.

2. When the admissibility, even if majority was obtained, does not reach unanimity, the Section shall transfer the decision to the Chamber for its judgment.

3. Non-reasoned orders of rejection, taken by the Sections or the Chambers, shall specify the requirements' breach and shall be notified to the appellant and the Public Prosecutor Office. These non-reasoned orders can be appealed only by the Public Prosecutor Office within the term of three days. This appeal shall be settled by a reasoned order (*auto*), which cannot be contested.

4. When the application for constitutional protection contains one or more irregularities that may be corrected, the Court shall proceed as provided in Article 49.4; if the irregularities are not corrected within the prescribed period, the Section shall reject the application through a non-reasoned order without appeal.

Article 51

1. Where an application is admitted, the Chamber shall urgently request the body or authority with which the decision, act or circumstance originated or the judge or court that heard the previous proceedings, to provide it with the court records or the supporting documents within a period of not more than ten days.

2. The body, authority, judge or court shall immediately acknowledge receipt of the request, shall dispatch the documents within the prescribed period and shall invite the persons who were parties to the former proceedings so that they may appear in the constitutional proceedings within ten days.

Article 52

1. On receipt of the court records and on expiry of the summons period, the Chamber shall transmit the records to the originator of the Amparo appeal, the parties who appeared in the proceedings, the State Attorney in cases involving the public Administration, and the Public Prosecutor Office. The hearing shall take place within a period applicable to all parties of not more than twenty days during which pertinent pleadings may be put forward.

2. Following the pleadings or on expiry of the deadline to perform them, the Chamber may defer the decision about the appeal to one of its Sections or report one day for the hearing, where appropriate, or deliberation and voting, when for its resolution it is applicable consolidated doctrine of the Constitutional Court.²⁶

3. The Chamber, or where appropriate the Section, shall hand down its judgement within ten days from the date fixed for the hearing or deliberation.²⁷

Chapter III

²⁶ Paragraph drafted in accordance with the Organic Law 6/2007.

²⁷ Paragraph drafted in accordance with the Organic Law 6/2007.

The judgement on Amparo appeals and its consequences

Article 53²⁸

The Chamber, or where appropriate the Section, having examined the case on its merits, shall deliver one of the following judgements:

- a) Granting of protection (*otorgamiento de amparo*);
- b) Denial of protection (*denegación de amparo*).

Article 54²⁹

When the Chamber, or where appropriate the Section, hears an Amparo appeal concerning rulings by the judges and courts, its role shall consist solely in determining whether the applicant's rights or freedoms have been violated and in preserving or restoring those rights or freedoms; it shall refrain from further comment on the actions of the judicial bodies.

Article 55

1. A judgement granting protection shall contain one or more of the following pronouncements:

- a) Declaration of nullity of the decision, act or resolution that impeded the full exercise of protected rights and freedoms, specifying, where applicable, the scope of its consequences;
- b) Recognition of the public right or freedom in the light of the constitutional provision relating to its substance;
- c) Full restoration of the applicant's right or freedom and adoption, where appropriate, of measures for its preservation.

2. When protection should be granted because, according to the Chamber or, where appropriate, the Section, the law applied violates fundamental rights or public freedoms, shall lay the question before the full Court to suspend the deadline for delivering judgment, in accordance with the provisions of Articles 35 *et seq.*³⁰

Article 56³¹

1. Lodging the Amparo appeal shall not stay the consequences of the act or judgment challenged.

2. Nevertheless, when the execution of the act or judgment challenged causes to the applicant an injury which might defeat the purpose of the protection, the Chamber, or the Section under Article 52.2, *proprio motu* or at the request of the applicant, may order the stay, whole or in part, of their consequences, as long as the stay does neither harm an interest protected by the Constitution, nor the fundamental rights or public freedoms of others.

²⁸ Article drafted in accordance with the Organic Law 6/2007.

²⁹ Article drafted in accordance with the Organic Law 6/2007.

³⁰ Paragraph drafted in accordance with the Organic Law 6/2007.

³¹ Article drafted in accordance with the Organic Law 6/2007.

3. Likewise, the Chamber or the Section may take cautionary measures (*medidas cautelares*) and provisional resolutions provided by the legal system which, for their nature, may be applied throughout the Amparo appeal tending to avoid the defeat of its purpose.

4. Stays or any other cautionary measures may be requested at any time, prior to the delivery of a judgement or prior to any other form of settlement of the Amparo appeal. The interlocutory issue of a stay shall be examined in a hearing of the parties and the Public Prosecutor Office, within a common period no longer than three days. The authorities responsible for execution shall report to the hearing if the Chamber or the Section so requires. The Chamber or the Section may stipulate, as a condition for denial of a stay where the rights of a third party could be seriously damaged, the provision of adequate surety to cover any ensuring damages and injures.

5. The Chamber or the Section may stipulate the stay of the execution and the adoption of precautionary measures with an appropriate and sufficient surety by the party concerned in order to cover any the damages that may arise. Their fixation and determination may be delegated to courts of instance.

6. Regarding exceptional urgent cases, the adoption of the stay and the precautionary and provisional measures may be carried out at the resolution concerning the admission to procedure (at the admissibility stage). Such adoption may be contested within five days from its notification, by the Public Prosecutor Office and other parties who appeared in the procedure. The issue shall be decided by the Chamber or the Section through decision without appeal.

Article 57

The stay or its denial may be modified during the proceedings for constitutional protection, *proprio motu* or at the request of a party, in the light of new circumstances or of circumstances that could not have been known at the time of examination of the interlocutory issue of a stay.

Article 58

1. Jurisdiction to rule on claims for damages consequent on the granting or refusal of a stay shall lie with the judges or courts, with which the sureties shall be deposited.

2. Claims for damages settled arising as a result of interlocutory matters shall be submitted within a year following the date of publication of the judgement of the Constitutional Court.

TITLE IV

CONSTITUTIONAL CONFLICTS

Chapter I

General provisions

Article 59

1. The Constitutional Court shall hear any conflicts that may arise concerning the jurisdiction or powers conferred directly by the Constitution, the Statutes of Autonomy

or organic or ordinary laws defining the respective spheres of competence of the State and the Autonomous Communities:

- a) Between the State and one or more Autonomous Communities;
 - b) Between two or more Autonomous Communities;
 - c) Between the Government and the Congress of Deputies, the Senate or the General Council of the Judiciary, or among those constitutional bodies.
2. The Constitutional Court shall also hear conflicts in defence of local self-government raised by municipalities and provinces against the State or an Autonomous Community.³²

Chapter II

Conflicts between the State and the Autonomous Communities or between these latter

Article 60

Actions concerning conflicts of jurisdiction between the State and an Autonomous Community or between these latter may be brought by the Government or the executive collegial bodies of the Autonomous Communities in the way prescribed in the following Articles. Negative conflicts may also be brought by interested natural or legal persons.

Article 61

1. Decisions, resolutions and acts by State bodies or by bodies of the Autonomous Communities or the omission of such decisions, resolutions or acts shall provide grounds for initiating conflicts of jurisdiction.
2. When one of the conflicts mentioned in the preceding Article is initiated in connection with a decision, resolution or act concerning which a challenge pending in any court, that court shall suspend the proceedings until the constitutional conflict has been decided.
3. The decision of the Constitutional Court shall be binding on all public authorities and shall be fully enforceable *erga omnes*.

Section I

Positive conflicts

Article 62

When the Government considers that a decision or resolution taken by an Autonomous Community is contrary to the allocation of powers established in the Constitution, the Statutes of Autonomy or the corresponding organic legislation, it may refer the dispute concerning jurisdiction directly to the Constitutional Court within a period of two months, or it may give notice of lack of jurisdiction, as provided in the following

³² Paragraph drafted in accordance with the Organic Law 7/1999.

Article, without prejudice to the Government's right to invoke Article 161.2 of the Constitution with the corresponding consequences.

Article 63

1. When the higher executive body of an Autonomous Community considers that a decision, resolution or act taken by the authority of another Autonomous Community or by the State is contrary to the allocation of powers established in the Constitution, the Statutes of Autonomy or the appropriate legislation, and where its own field of jurisdiction is affected, it shall make an application to the authority in order to reverse the decision or to annul the act.
2. The application denouncing lack of jurisdiction may be laid within two months following the date of publication or announcement of the decision, resolution or act that is deemed *ultra vires* or in the event of its application in a specific case, and shall be addressed directly to the Government or the higher executive body of the other Autonomous Community, the Government being informed also in this latter case; the Government will be informed in this case.
3. The application shall clearly specify the provisions of the decision or the particular aspects of the resolution or act deemed *ultra vires* as well as the legal or constitutional provisions from which the defect results.
4. When the body applied considers that the application is justified, it shall take the appropriate action within a period of not more than one month from the date of reception thereof, informing the applicant and also the Government in cases where the latter was not the applicant. If it considers that the application is groundless, it shall reject it within the same deadline; afterwards the unanswered applications shall be considered rejected.
5. If the applicant has not obtained satisfaction within one month following notification of rejection or on expiry of the deadline referred to in the preceding paragraph, it may lay the dispute before the Constitutional Court, certifying that the application procedure has proved unsuccessful and stating the legal arguments on which the lawsuit is based.

Article 64

1. Within ten days the Court shall inform the Government or the corresponding autonomous body of the initiation of the conflict, setting a deadline which shall under no circumstances exceed twenty days for presentation of all relevant documents and arguments.
2. When the conflict was initiated by the National Government invoking Article 161.2 of the Constitution, following adoption of a decision by the Autonomous Community, notification thereof by the Court shall immediately suspend the enforcement of the decision, resolution or act contested.
3. In all other cases, the body initiating the conflict may apply to the Court for a stay of the contested decision, resolution or act, pleading damages impossible or difficult to redress; the Court shall be free to grant or deny the requested stay.
4. A statement of the facts of the conflict initiated by the Government and, when applicable, the Court's decision granting stay of the challenged decision, resolution or

act, shall be communicated to the parties concerned and published in the appropriate “Official Gazette” (“*Diario Oficial*”) by the Court itself.

Article 65

1. The Court may require the parties to furnish any information, clarifications or details that it considers necessary for its decision and shall deliver a decision within fifteen days following the expiry of the period for pleading or, where applicable, of any deadline set in respect of the additional information, clarifications or details.

2. In the case provided in paragraph 2 of the preceding Article, if no judgement is delivered within five months from the initiation of the conflict, the Court shall issue a reasoned order within that period stating whether the stay of the act, resolution or decision contested by the Government must be maintained or lifted.

Article 66

The judgement shall specify the competent body and shall annul, where appropriate, the contested decision, resolution or act on grounds of lack of jurisdiction. It may take whatever action it sees fit on any *de facto* or *de jure* produced situations.

Article 67

When the contested jurisdiction has been assigned by a law or an enactment ranking as a law, the conflict of jurisdiction shall proceed from the time of initiation or, where appropriate, from the time of invoking the existence of the empowering enactment in the way prescribed for an action of unconstitutionality.

Section II

Negative conflicts

Article 68

1. When an organ of the State Administration disclaims authority to rule on any petition lodged with it by a natural or legal person on the grounds that jurisdiction in the matter lies with an Autonomous Community, the party concerned, after seeking administrative remedy through an application to the relevant Ministry, may reassert the claim before the collegiate executive body of the Autonomous Community that has been identified as competent. Similar action shall be taken when an application is rejected by an Autonomous Community on the grounds that jurisdiction lies with the State or another Autonomous Community.

2. The Administration approached in the second instance shall accept or decline jurisdiction within one month. In the event of acceptance, it shall analyse the application. In the event of rejection, it shall notify the applicant, stating clearly the grounds on which its decision is based.

3. When the Administration referred to in the previous paragraph disclaims jurisdiction or fails to take an affirmative decision within the prescribed period, the party concerned

may address to the Constitutional Court. In this event, it shall make the appropriate lawsuit within one month following the notification of the refusal of jurisdiction or on expiry of the period fixed in the preceding paragraph without an explicit outcome, requesting examination and settlement of the conflict of negative jurisdiction.

Article 69

1. The written lawsuit shall be accompanied by documents certifying that the remedy referred to in the preceding paragraph has been exhausted and reporting the results of those proceedings.
2. When the Court finds that the refusal of the Administrations involved is based specifically on a difference of interpretation of the provisions of the Constitution or the Statutes of Autonomy or organic or ordinary legislation defining the specific jurisdictions of the State and the Autonomous Communities, it shall declare the conflict admissible in a reasoned order issued within ten days following the submission of the lawsuit. That reasoned order shall be communicated immediately to the applicant and the Administrations involved and to any other parties deemed by the Court to have interest in the case, together with a copy of the lawsuit and supporting documents; it shall grant a period of one month to all parties for presentation of any arguments they consider relevant for the purpose of reaching a solution of the conflict.

Article 70

1. The judgement specifying which Administration has jurisdiction shall be delivered within one month following the expiry of the period indicated in the preceding Article or, when appropriate, of the periods set by the Court for responding to any requests for clarifications or additional information or details.
2. Administrative deadlines that have expired shall be renewed as a matter of course for a normal period following publication of the judgement.

Article 71

1. The Government may also initiate a conflict of negative jurisdiction after requesting the higher executive body of an Autonomous Community to exercise the powers associated with the jurisdiction assigned to it by its own Statutes of Autonomy or delegated or transferred by an organic law, and having received a negative answer grounded on the lack of jurisdiction.
2. The failure of the respondent executive body to take action within the period fixed by the Government for the exercise of its powers shall be taken as an implicit declaration of lack of jurisdiction. That period shall in no circumstances be less than one month.

Article 72

1. Within one month following the date on which the application referred to in the preceding Article must be viewed as expressly or tacitly rejected, the Government may lay the negative conflict before the Constitutional Court in the form of an application stating the constitutional, statutory or legal provisions which, in its opinion, require the Autonomous Community to exercise its powers.

2. The Court shall transmit the application to the higher executive body of the Autonomous Community, granting it a period of one month to present whatever arguments it deems fit.

3. Within one month following expiry of that period or, where applicable, of the period granted to the State or the Autonomous Community to reply to any requests for clarifications or additional information or details, the Court shall deliver its judgement, which shall contain:

a) The declaration that the application is grounded and the fixation of the deadline for the Autonomous Community to exercise the required power; or

b) The declaration that the application is groundless.

Chapter III

Conflicts between constitutional organs of the State

Article 73

1. When one of the constitutional bodies referred to in Article 59.3 of this Law decides in plenary session that the decisions of another such body encroach on the powers conferred on the former by the Constitution or by organic laws, it shall inform the latter thereof within one month following the date on which it took knowledge of the decision allegedly adopted by virtue of wrongfully assumed powers and request its revocation.

2. When the body notified asserts that it has acted within its constitutionally and legally conferred powers, or when it fails to take the corrective action requested within a period of one month following the reception of the notification, the body alleging that its powers have been wrongfully assumed shall lay the conflict before the Constitutional Court within the following month. To that end, it shall submit a lawsuit specifying the provisions that have allegedly been violated and present any arguments it sees fit. The lawsuit shall be accompanied by any judicial record certificate considered relevant and by the communication provided for in the preceding paragraph of this Article.³³

Article 74

On receipt of the lawsuit, the Court shall transmit it to the respondent body within ten days, according it one month to present any arguments it deems relevant. It shall send similar communications and notice of proceedings to all other bodies empowered to initiate this type of conflict; these bodies may appear before the Court, in support of the applicant or the defendant, if they consider that their own powers may be affected by the outcome of the conflict.

Article 75

1. The Court may require the parties to furnish any information, clarifications and details that it deems necessary for its decision and shall deliver judgement within one month following expiry of the period for submission of arguments referred to in the

³³ Paragraph drafted in accordance with the Organic Law 6/2007.

preceding Article or, when appropriate, of the period for submission of information, clarifications or additional details, which shall not exceed an additional thirty days.

2. The Court's judgement shall specify the body to which the disputed constitutional powers belong and shall declare null and void any acts executed through the wrongful assumption of powers; it shall also take appropriate action on any legal situations that may have come about as a result of such acts.

Chapter IV³⁴

Conflicts in defence of local self-government

Article 75 bis

1. Regulations and enactments having the force of law approved by the State or the Autonomous Communities infringing local self-government guaranteed by the Constitution may be contested through a conflict in defence of local self-government.

2. The Constitutional Court's ruling shall bind all public authorities and shall have *erga omnes* effects.

Article 75 ter

1. These conflicts may be raised by:

a) The municipality or province being the sole target of the law.

b) A number of municipalities that account for at least one seventh of those in the territorial scope of the provision having the force of law, and representing at least one sixth of the official population of the territorial area concerned.

c) A number of provinces which constitute at least half of those in the territorial scope of the provision having the force of law, and representing at least half the official population.

2. In order to raise the conflicts in defence of local self-government it will be compulsory the agreement of the plenary of the local governments, adopted by the absolute majority of their members.

3. Once the requirement of the preceding paragraph has been fulfilled, and before the submission of the conflict, a mandatory but not binding opinion (*dictamen*) shall be requested to the State Council (*Consejo de Estado*) or advisory board from the Autonomous Community, depending on whether the local governments belong to one or more Autonomous Communities. In those Autonomous Communities without an advisory board, the opinion shall be requested to the State Council.

4. Local government associations may support the legitimated local governments in order to fulfil the procedural requirements.

Article 75 quater

³⁴ Chapter drafted in accordance with the Organic Law 7/1999.

1. The demand of the opinions mentioned in the preceding Article must be formalized within three months after the publication of the law violating local self-government.
2. Within one month after receiving the opinion from the State Council or the advisory board of the Autonomous Community, the legitimated local governments may raise the conflict before the Constitutional Court, certifying the fulfilment of the requirements mentioned in the preceding Article and stating the legal grounds of their petition.

Article 75 quinque

1. Submitted the conflict, the Court may reject it by reasoned order due to the lack of standing or other enforceable and irremediable requirements or when the controversy was clearly groundless.
2. Admitted the conflict, the Court shall refer it, within ten days, to the legislative and executive bodies of the Autonomous Community of which had stemmed the law, and in any case to the legislative and executive bodies of the State. The standing and the pleadings must be formalized within twenty days.
3. The submission of the conflict will be notified to the interested parties and published in the Official Gazette (“*Diario Oficial*”) by the Court.
4. The Court may demand the parties any information, explanation or precision necessary for its decision and shall decide within fifteen days after the expiration of the deadline for pleading or, when appropriate, for giving the information, explanation or complementary precisions referred *supra*.
5. The judgment shall declare whether the local self-government constitutionally guaranteed has been violated or not, setting, when appropriate, to whom the discussed power belongs and shall decide, when appropriate, about any *de facto* or *de jure* situations created in violation of local self-government.
6. The declaration, when appropriate, of the unconstitutionality of the law that was raised in the conflict shall require a new judgement if the full Court decides to raise the question after solving the conflict declaring the violation of local self-government. The question shall be handled following the procedure provided by Articles 37 and related and shall have the ordinary effects set on Articles 38 *et seq.*

TITLE V

CHALLENGES TO ENACTMENTS WITHOUT FORCE OF LAW AND TO DECISIONS OF THE AUTONOMOUS COMMUNITIES, AS PROVIDED UNDER ARTICLE 161.2 OF THE CONSTITUTION

Article 76

The Government may challenge enactments without force of law and decisions by anybody of the Autonomous Communities before the Constitutional Court within two months following the date of their publication or, in the absence of publication, the date on which it has knowledge thereof.

Article 77

The challenge provided for in this Title, regardless of the grounds on which it is based, shall be formulated and submitted in accordance with the procedure set forth in Articles 62 to 67 of this Law. Notification of the challenge by the Court shall entail a stay of the contested enactment or decision until the Court decides, within a period of not more than five months unless it delivers judgement sooner, to ratify or annul it.

TITLE VI

DECLARATION ON THE CONSTITUTIONALITY OF INTERNATIONAL TREATIES

Article 78

1. The Government or either of the two Houses of the Spanish Parliament may request the Constitutional Court to rule on whether or not there is a conflict between the Constitution and the provisions of an international treaty whose text is final but to which the State has not yet given its consent.
2. Submitted the request, the Constitutional Court shall summon the applicant and the other competent bodies, in accordance with the provisions of the previous paragraph, to express their opinion on the matter within a period of one month. Within one month following the expiry of that period, except in the case provided for in the following paragraph, the Constitutional Court shall deliver its declaration which, in accordance with the provisions of Article 95 of the Constitution, shall be binding.
3. The Constitutional Court may at any time request the bodies mentioned in the preceding paragraph, other natural or legal persons or other bodies of the State or the Autonomous Communities to furnish any clarifications, additional information and details that it considers necessary, extending the above-mentioned period of one month by the period accorded for response to its consultations, which may not exceed thirty days.

Title VI BIS³⁵

PRELIMINARY ACTION OF UNCONSTITUTIONALITY AGAINST DRAFTS OF STATUTES OF AUTONOMY AND AGAINST REFORM PROPOSALS OF THE STATUTES OF AUTONOMY

Article 79

1. Drafts of Statutes of Autonomy and reform proposals of the Statutes of Autonomy may be subject to the preliminary action of unconstitutionality.
2. Once the text of the Draft of a Statute of Autonomy or the reform proposal of an Statute of Autonomy has been approved by the Spanish Parliament, an action may be brought before the Constitutional Court.

³⁵ Title drafted in accordance with the Organic Law 12/2015.

3. Those that have standing to bring an action of unconstitutionality against Statutes of Autonomy in accordance with the Constitution and this Organic Law shall have also standing to bring a preliminary action of unconstitutionality.
4. The action shall be brought within the deadline of three days following the date of publication of the text in the “Spanish Parliament Gazette”. Lodging the action shall automatically suspend the subsequent proceedings.
5. When the adoption of the Draft of Statute of Autonomy or its reform proposal requires a referendum in the territory of the Autonomous Community, this referendum shall not be convened until the Constitutional Court has delivered its ruling and, when necessary, the Spanish Parliament has removed or modified the unconstitutional provisions.
6. The preliminary action of unconstitutionality shall be submitted in accordance with the procedure described in chapter II of the title II of this Law and must be decided by the Court within a non-extendable deadline of six months from its lodging. The Court may order the necessary dispositions to the effective enforcement of these rules, reducing the ordinary deadlines and giving priority to the resolution of these actions over other pending cases.
7. When the ruling of the Court declares the inexistence of the invoked unconstitutionality, the proceedings leading to its entry into force will continue, including, the procedure to convene and hold the referendum, where appropriate.
8. If the Court declares the unconstitutionality of the challenged text, it shall specify the concerned provisions, those affected by the declaration because of their association or as a consequence and the breached constitutional provisions. In this case, the procedure cannot proceed without the provisions being removed or modified by the Spanish Parliament.
9. The ruling in a preliminary action does not prejudice the decision of the Court in any actions or questions of unconstitutionality that could be lodged after the entry into force of the contested text.

TITLE VII

GENERAL PROVISIONS CONCERNING PROCEDURE

Article 80

The provisions of the Judiciary organic Law (*Ley Orgánica del Poder Judicial*) and the Code of Civil Procedure (*Ley de Enjuiciamiento Civil*) shall be applicable, as additional law, to appearances in court, challenge to a Judge and abstention, publication and form of instruments, communications and judicial cooperation, working days and hours, setting of deadlines, deliberations and voting, lapse, renunciation and withdrawal, official language and courtroom police.

The provisions of the Administrative Jurisdiction Law (*Ley de la Jurisdicción Contencioso-administrativa*) shall be applicable, as additional law, on the execution of judgements.³⁶

³⁶ Paragraph drafted in accordance with the Organic Law 12/2015.

Article 81

1. Natural or legal persons with a legitimate interest in appearing as a plaintiff or additional party in constitutional proceedings shall be represented by a judicial attorney and act under the guidance of an advocate. Persons holding a Bachelor of Law degree may appear in defence of their own rights and interests even if they do not practise the profession of judicial attorney or advocate.
2. Only current members of any Bar Association in Spain may practise as an advocate in the Constitutional Court.
3. Those who have served as a Judge or counsel in the Constitutional Court shall be barred from practising in the Court as an advocate.

Article 82

1. The bodies or the deputies or senators authorised by the Constitution and by this Law to bring constitutional proceedings shall be represented by the member or members that they appoint or by a representative appointed for the purpose.
2. Executive bodies, both of the State and of the Autonomous Communities, shall be represented and defended by their lawyers. The former shall be represented and defended by the State Attorney.

Article 83

The Court, after hearing the parties to constitutional proceedings, may at any time, *proprio motu* or at the request of any party, order the consolidation of proceedings whose purposes are related and warrant joint proceedings and rulings. The hearing shall take place within a period of not more than ten days.

Article 84

The Court may, at any time prior to delivering judgement, inform the parties to constitutional proceedings of the possible existence of other grounds, different from those invoked, of sufficient importance to warrant an appropriate ruling on admissibility and rejection and, when appropriate, on the granting or dismissal of the constitutional complaint. There shall be a joint hearing of the parties within a similar period no longer than ten days, which shall suspend the deadline to approve the appropriate decision.

Article 85

1. Constitutional proceedings shall be initiated by means of a reasoned lawsuit stating the grounds for the request in clear and precise terms.
2. The lawsuit shall be submitted at the seat of the Constitutional Court within the period stipulated by law. Amparo appeals may also be submitted until the 15 hours of the working day following the expiration of the procedural deadline, at the registry of the Constitutional Court, or at the office or central registry service of the civil courts in any town, in accordance with the provisions of Article 135.1 of Law No. 1/2000,

January 7th, of Civil Procedure. To these effects, the Court shall regulate the conditions of use of technical, electronic, computer or ICT means.³⁷

3. The full Court or the Chambers may determine to hold an oral hearing.³⁸

Article 86

1. The decision in constitutional proceedings shall take the form of a judgement. However, decisions on initial rejection, withdrawal and expiration shall take the form of a reasoned order (*auto*) unless otherwise stipulated in this Law. Other decisions shall take the form of a reasoned order or a non-reasoned order (*providencia*), depending on their content³⁹.

2. The judgements and declarations referred to in Title VI of this Law shall be published in the “Official State Gazette” within thirty days following the date of the judgement. The Court may also order the publication of reasoned orders (*autos*) in the same way when deemed convenient.⁴⁰

3. Even though the provisions of the previous paragraph, the Court may order the publication of judgements and other resolutions through other means, adopting, when appropriate, the measures it sees fit to protect rights recognized by Article 18.4 of the Constitution.⁴¹

Article 87

1. The judgements of the Constitutional Court shall be binding on all public authorities.

In particular, the Court may agree a personal notification for its decisions to any authority or public employee it deems necessary.⁴²

2. The courts shall provide the Constitutional Court, as a matter of priority and urgency, with any legal co-operation and assistance it may request.

To this end, Judgments and Court decisions shall be considered enforceable.⁴³

Article 88

1. The Constitutional Court may request the public authorities and any organ of public administration to furnish records, reports and documents concerning a decision or act that is subjected to a constitutional proceeding. In the case that the appeal had been already admitted, the Court shall set a deadline to the parties for communication of the records, information or documents, so that they may argue in their favour.⁴⁴

2. The Court shall take any steps required to preserve the confidentiality concerning particular documents and the confidentiality that the Court itself gives by a reasoned decision to certain proceedings.

³⁷ Paragraph drafted in accordance with the Organic Law 6/2007.

³⁸ Paragraph drafted in accordance with the Organic Law 6/2007.

³⁹ Paragraph drafted in accordance with the Organic Law 6/1988.

⁴⁰ Paragraph drafted in accordance with the Organic Law 6/2007.

⁴¹ Paragraph drafted in accordance with the Organic Law 6/2007.

⁴² Paragraph drafted in accordance with the Organic Law 15/2015.

⁴³ Paragraph drafted in accordance with the Organic Law 15/2015.

⁴⁴ Paragraph drafted in accordance with the Organic Law 6/2007.

Article 89

1. When it is deemed necessary, the Court may, *motu proprio* or at the request of a party, decide taking of evidence, ruling freely on its form and duration, which shall in no circumstances exceed thirty days.
2. When a witness summoned by the Court is unable to appear without authorisation from a higher body, the authority concerned shall, where appropriate, inform the Court of the grounds on which its refusal is based. The Court, having taken cognisance of this report, shall make the final decision.

Article 90

1. Unless otherwise stipulated in this Law, decisions shall be taken by a majority of the members meeting in full session, of the Chamber or Section participating in the deliberations. In the event of a tie, the President shall have the casting vote.
2. The President and the Judges of the Court may express their disagreement in the form of a dissenting opinion, in the case it was maintained in the course of the deliberations, concerning either the judgement or its grounds. Dissenting opinions shall be included in the ruling and, in the case of judgements, reasoned orders (*autos*) or declarations, shall be published with them in the “Official State Gazette”.⁴⁵

Article 91

The Court may suspend its proceedings until the conclusion of criminal proceedings taking place before a criminal court.

Article 92⁴⁶

1. The Court will ensure effective compliance of its decisions. It may specify, in the judgement or decision or in subsequent acts, the body responsible for execution, the necessary enforcement measures and, where applicable, it may decide on interlocutory matters relating thereto.

The Court may also nullify any resolution breaching those delivered in the exercise of its jurisdiction, on the occasion of their execution, after hearing the Public Prosecutor Office and the body which delivered it.

2. To ensure the effectiveness of its decisions, the court may request assistance and legal co-operation from any public authorities and public administrations, which will provide it as a matter of priority and urgency.
3. The parties may bring an action to request the execution as provided in paragraph 1. They may propose the court the necessary enforcement measures to ensure the effective compliance of its decisions.
4. In case there is a suspicion about the unfulfillment of any ruling, the Court, *ex officio* or at request of e party of the process, will request the institutions, authorities, public

⁴⁵ Paragraph drafted in accordance with the Organic Law 6/2007.

⁴⁶ Article drafted in accordance with the Organic Law 15/2015.

employees or particulars to whom the compliance of the decision may concern, to inform thereon in the period they were determined to.

Following the report or lapsed the determined period, if the Court assesses complete breach or partial failure of its decision, it may adopt any of the following measures:

a) Impose reiterated fines from three thousand to thirty thousand euros to authorities, public employees or particulars failing to enforce the Court decisions, until the complete fulfillment of the ruling.

b) Suspend authorities or public employees at the Administration responsible for the breach from their duties, during the necessary time to ensure the compliance of the Court's rulings.

c) The execution by substitution of the rulings delivered in constitutional processes. In this case, the Court may request the State Government to co-operate, so that in the terms provided by the Court, it shall adopt the necessary measures to ensure the enforcement of the decisions.

d) Prepare the necessary statements to claim the criminal liability to whom it may correspond.

5. In the case of rulings handed down on suspension of challenged provisions or acts in which special constitutional significance may concur, the Court, *ex officio* or at request of the Government, shall adopt the necessary measures to ensure due enforcement without hearing the parties. In the same decision the Court will give audience to the public prosecutor and the parties within a joint deadline of three days, after which the Court will deliver decision overruling, validating or modifying the previously adopted measures.

Article 93

1. There shall be no appeals against the judgements of the Constitutional Court but the parties may request clarifications within two days of the date of their notification.

2. The only remedy available against non-reasoned orders (*providencias*) and reasoned orders (*autos*) is, when appropriate, a demand of reconsideration (*recurso de súplica*) which shall not suspend the effects of the decision. The demand may be lodged within three days and shall be decided, after a prior joint hearing of the parties within a similar period, within the following two days.

Article 94

The Court, *motu proprio* or at the request of a party, shall correct or confirm any procedural defect before delivering its judgement.

Article 95

1. Constitutional Court proceedings shall be free of charge.

2. The Court may charge costs arising from the proceedings to any party or parties that have defended unfounded positions where it finds evidence of recklessness or bad faith.

3. The Court may impose a fine of between 600 and 3.000 euros on any party who brings an action of unconstitutionality or appeal for protection under circumstances of recklessness or abuse of rights.⁴⁷

4. The limits of the amount of penalties or the fines foreseen in letter a) of the section 4 Article 92 may be revised, at all moments, by ordinary law.⁴⁸

TITLE VIII

THE STAFF OF THE CONSTITUTIONAL COURT

Article 96⁴⁹

1. The following officers shall serve in the Constitutional Court:

- a) The General Secretary;
- b) The counsels (*Letrados*);
- c) The registrars (*secretarios de justicia*);
- d) Other public servants attached to the Constitutional Court.

2. The staff of the Court shall be subject to the provisions of this Law and of its implementing regulations⁵⁰ and, in addition, to the regulations applicable under the legislation in force to personnel employed in the administration of justice.

3. The offices and functions mentioned in this Article shall be incompatible with any other office, post or responsibility, with the exercise of a profession or with any industrial, commercial or professional activities, even of a consultative or advisory nature. Persons holding such office may, however, engage in teaching or research activities that are not, in the Court's opinion, incompatible with faultless service on its behalf.

Article 97⁵¹

1. The Constitutional Court shall be assisted by counsels selected on the basis of a competitive examination among public officials who had gained access to a body or group level A in their capacity as law graduates, according to the Rules of the Court, or being freely nominated following the temporary appointment regime, by the same Court, in accordance with the conditions established at its Rules, among lawyers, university professors, judges, members of the Public Prosecutor Office or public officials, who had gained access to a body or group level A in their capacity as law graduates. The appointed counsels shall stay at their former career in a special temporary release throughout the time they serve in the Constitutional Court.

2. The counsels shall have the incompatibility referred to in Article 81.3 during the three years immediately after termination of their duties.

⁴⁷ Paragraph drafted in accordance with the Organic Law 6/2007.

⁴⁸ Paragraph drafted in accordance with the Organic Law 15/2015.

⁴⁹ Article drafted in accordance with the Organic Law 6/2007.

⁵⁰ The Organisational and Staff Regulations were approved by the plenum of the Constitutional Court on July 5th 1990.

⁵¹ Article drafted in accordance with the Organic Law 6/2007.

Article 98⁵²

The Constitutional Court shall have a General Secretary elected by the full Court and appointed by the President from among the counsels, whose chiefship shall exercise without prejudice to the powers vested in the President, the Court and the Chambers.

Article 99⁵³

1. The General Secretary, under the authority and instructions of the President, shall carry out the following tasks:

- a) The management and coordination of the Court services and the chiefship of staff.
- b) The compilation, classification and publication of the Court's constitutional doctrine.
- c) The preparation, execution and settlement of the budget, assisted by technical staff.
- d) Any other function assigned by the Rules of the Court.

2. The rules of the Court may provide for delegation of administrative powers of the President to the General Secretary. Likewise, it may be provided delegation of General Secretary's competences.

3. An administrative appeal (*recurso de alzada*) may be lodged against General Secretary's decisions before the President of the Court, whose ruling shall exhaust the administrative channel. A judicial remedy against the President's ruling may subsequently be sought before administrative Courts (*recurso contencioso-administrativo*).

Article 100⁵⁴

The Court shall be served by a number of registrars to be determined by its staffing plan. The registrars shall be recruited from the registrars serving in the administration of justice; any vacancies shall be filled through a contest of merit among individuals qualified to serve in the Supreme Court.

Article 101

The registrars shall safeguard the authenticity of the judicial documents in the Court and the Chambers and shall perform the duties, on behalf of the Court or the Chamber to which they serve, which are conferred to secretaries under the organic and procedural legislation of the courts.

Article 102⁵⁵

The Constitutional Court shall incorporate to its service the personnel employed in the administration of justice and other officers in the conditions established by its Rules. The Court may also engage employees in labour regime in order to fill positions not involving direct or indirect participation in the exercise of the powers of the

⁵² Article drafted in accordance with the Organic Law 6/2007.

⁵³ Article drafted in accordance with the Organic Law 6/2007.

⁵⁴ Article drafted in accordance with the Organic Law 6/2007.

⁵⁵ Article drafted in accordance with the Organic Law 6/2007.

Constitutional Court, and whose functions are typical of trades, instrumental assistants or administrative support. The engagement of this staff shall be carried out through selection processes in accordance with the principles of equality, merit and ability.

TRANSITIONAL PROVISIONS

One

1. Within three months following the date of entry into force of this Law, the Congress of Deputies, the Senate, the Government and the General Council of the Judiciary shall submit nominations to the King for the appointment of the Judges of the Constitutional Court. This period shall be suspended, in the case of the Houses, during the intersessional periods.

2. The Court shall be constituted within fifteen days following the date of publication of the final appointments if all nominations are submitted during the same session. Otherwise, it shall be constituted and commence its proceedings within fifteen days following the end of the session during which the first eight appointments have been made, regardless of the circumstances that led to the failure to appoint all the Judges provided for under Article 5 of this Law.

3. At the first competitive examination, the counsels to the Constitutional Court shall be selected by a committee of the Court itself, appointed by the full Court and chaired by its President.

Two

1. The deadlines set in this Law for bringing an action of unconstitutionality or Amparo appeal or for initiating a constitutional dispute shall be calculated from the date on which the Court is constituted in accordance with the preceding transitional provision, in cases where the laws, decisions, resolutions or acts that motivated the action or dispute came into force prior to that date and are still in effect.

2. Pending creation of the conditions for implementation of Article 53.2 of the Constitution establishing the judicial procedure for protection of fundamental rights and freedoms, the judicial means for seeking redress in the form of an Amparo appeal shall be the ordinary judicial administrative remedy or that described in Section II of Law No. 62/1978, of December 26th concerning judicial protection of fundamental rights; the scope thereof shall therefore be understood to extend to all rights and freedoms referred to in Article 53.2 of the Constitution.

Three

1. The drawing of lots referred to in Transitional Provision IX of the Constitution shall be carried out in the fourth month preceding the date of expiry of the three-year or six-year term since the initial appointment of the Judges of the Constitutional Court.

2. The restriction established in Article 16.2 of this Law shall not be applicable to Judges of the Constitutional Court whose office is terminated three years after their appointment pursuant to Transitional Provision IX of the Constitution.

Four

The Government shall provide the funds required for the functioning of the Constitutional Court until such time as it has a budget of its own.

Five

Should Navarra decide not to exercise its right under Transitional Provision IV of the Constitution to seek incorporation in the Basque General Council or in the Basque autonomous regime that takes its place, the Regional Government (*Diputación*) and the Regional Parliament of Navarra shall enjoy the right to initiate disputes in accordance with Article 2.1.c and the right to bring actions of unconstitutionality accorded to the Autonomous Communities under Article 32.

ADDITIONAL PROVISIONS

First⁵⁶

1. The counsels selected on the basis of a competitive examination referred to in Article 97.1 shall not exceed the number of 16.
2. The planning staff of the Constitutional Court may only be modified by the Finance Law.

Second

1. The Court shall draw up its budget, which shall constitute a section of the general State Budget.
2. The General Secretary, assisted by technical staff, shall be responsible for preparing and implementing the budget and for keeping the accounts.

Third⁵⁷

1. References to the provinces contained in this Law shall be referred to the Islands in the Autonomous Communities of Balearic Islands (*Illes Balears*) and Canary Islands.
2. Besides the local governments mentioned in Article 75 ter 1 the conflict in defence of the local self-government can be raised, in relation with regulations and enactments having the force of law approved by the Autonomous Community of Canary Islands three Island Councils (*Cabildos*), and by the Autonomous Community of Balearic Islands, two Island Councils (*Consejos Insulares*), although they do not reach the percentage of population required in that Article.

⁵⁶ Provision drafted in accordance with the Organic Law 6/2007.

⁵⁷ Provision drafted in accordance with the Organic Law 7/1999.

Fourth⁵⁸

1. The conflicts of jurisdiction that may arise between the institutions of the Autonomous Community of the Basque Country and any of its historical territories (*territorios históricos*) shall follow the procedure provide by Article 39 of its Statute of Autonomy.

2. In the scope of the Autonomous Community of the Basque Country, besides the local governments mentioned in Article 75 *ter* 1, the appropriate Provincial Assembly (*Juntas Generales*) and Provincial Council (*Diputaciones Forales*) of every historical territory may raise the conflicts provided by Article 75 bis of this Law when the regulations and enactments having the force of law affect the territory of the Autonomous Community.

Fifth⁵⁹

1. The Constitutional Court shall hear appeals against the provincial tax regulations of Álava, Guipúzcoa and Vizcaya, approved in the exercise of their exclusive jurisdiction guaranteed by the first additional provision of the Constitution and recognized in Article 41.2.a) of the Statute of Autonomy for the Basque Country (Organic Law 3/1979, of December 18th 1979).

The Constitutional Court shall also hear the preliminary issues delivered by the jurisdictional bodies about the validity of those provisions, when the final judgment of lawsuits depends on it.

The provincial tax regulations shall be compared with the dispositions mentioned in Article 28 of this Law in order to decide about their validity.

2. The submission and its effects, standing capacity, proceedings and judgment of actions and questions referred to in the preceding paragraph shall follow the Title II of this Law concerning the actions and questions of unconstitutionality respectively.

The proceeding regulated in Articles 34 and 37 shall refer to the appropriate Provincial Assembly and Provincial Council.

In the proceeding of actions and questions regulated by this additional provision the competence rules of the full Court and the Chambers established in Articles 10 and 11 of this Law shall be applied.

3. The State regulations having the force of law may be contested in conflicts in defence of *foral* self-government of the historical territories (*territorios históricos*) belonging to the Autonomous Community of the Basque Country, guaranteed by the Constitution and the Statue of Autonomy.

These conflicts may be submitted by the Provincial Assembly and Provincial Council of the historical territories of Álava, Vizcaya y Guipúzcoa through a resolution passed to this purpose.

These conflicts shall be processed and resolved following Articles 63 *et seq.*

⁵⁸ Provision drafted in accordance with the Organic Law 7/1999.

⁵⁹ Provision drafted in accordance with the Organic Law 1/2010.

