

I. GENERAL PROVISIONS

HEAD OF STATE

12756 ORGANIC LAW 6/2002 of 27 June
on Political Parties

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KING OF SPAIN

Know all men by these presents:
That Parliament has approved and I
hereby endorse the following Organic
Law.

STATEMENT OF MOTIVES

I

Law 54/1978 on Political Parties, a pre-constitutional law and therefore brief in articles and content, fundamentally established a simple formation procedure in the framework of the freedom of political parties, an objective which, on the other hand, was highly relevant in the foundational time in which the Law was passed. All the other provisions which currently comprise the legal status of political parties in Spain derive from that established in the Constitution and laws which, like the Parliamentary Regulations and the Electoral Law, lay down the function and essential role of political parties in our democratic system, as well as from later legislative reforms like those contained in the Penal Code as regards the illegality of certain associations or those related to the funding of political parties, combined with the intensive interpretative work of

the Judiciary and the Constitutional Court.

Today, nearly twenty-five years after the approval of that Law on Political Parties, which continues to be in force, the inadequacies of an incomplete and fragmentary legal status of political parties have become evident in a mature and firmly consolidated democracy, in which the important role and constitutional relevance of political parties has not ceased to increase. Therefore, a reform is currently needed for several important reasons.

First, to clearly and systematically reflect the experience gathered in these past years.

Secondly, to renew provisions anchored on the priority concerns of the past, which are inadequate and insufficient to regulate the new realities of the present. Particularly in view of the vigour with which society currently complements the action of public institutions and opens new channels for participating or relating with them through instruments which, as in the case of associations, foundations or political parties, are being the subject of the respective legislative modernisation.

On another front, although political parties are not constitutional bodies but association-based private entities, they are nonetheless an essential part of the constitutional architecture; they perform functions of primary constitutional relevance and hold a second characteristic which the doctrine tends to summarise with reiterated references to their constitutional relevance and institutional guarantee conferred by the Constitution. From both points of view, these current times call for the strengthening and improvement of the legal status of political parties,

with a more defined, guarantee-based and complete system. If this is applicable to associations, it should be even more so to political associations, whose aim is to unite convictions and efforts in order to steer the democratic direction of public issues, contribute towards the operation of public institutions and prompt changes and improvements as a result of the exercise of political power. But also because political parties are essential instruments of the action of the State, in an advanced and demanding State based on the rule of law such as ours, which places limits and establishes guarantees and controls on all subjects, no matter how relevant they are in the constitutional structure. It could even be said that the greater a subject's prominence and function in the system, the greater the interest of a State based on the rule of law in improving its legal framework.

Alongside the above, in our case, there is general agreement on the deficiency of the current legislation in establishing the constitutional requirements for the democratic organisation and operation of political parties as well as an action procedure subject to the Constitution and the laws, both in terms of understanding the democratic principles and constitutional values to be observed in their internal organisation and external activities, and in everything affecting the procedures for making them effective.

This deficiency now calls for a renewed effort to improve the provisions in force. The objective is to ensure the operation of the democratic system and the fundamental freedoms of citizens, preventing a political party from repeatedly and seriously attempting against that democratic system of freedoms, from justifying racism and xenophobia or politically supporting

violence and the activities of terrorist groups. Particularly bearing in mind that, owing to terrorism activities, it is essential to clearly identify and differentiate organisations that defend and promote their ideas and programmes, no matter what they may be, including those which seek to revise the institutional framework, by scrupulously respecting the democratic methods and principles, from others which base their political action on complicity with violence, terror, discrimination, exclusion and violation of rights and freedoms.

For such purposes, a judicial procedure is established for banning a political party on the grounds of giving real and effective political support to violence or terrorism, which is different from the judicial procedure established in the Penal Code for dissolving illegal associations on the grounds described in its articles 515 and 520.

II

To implement these objectives, the current Organic Law on Political Parties, which develops essential provisions contained in articles 1, 6, 22 and 23 of our Constitution, includes thirteen articles grouped in four chapters, and it is rounded off with three additional provisions —which include the reform of two articles of Organic Law 5/1985 of 19 June, on the General Electoral System, and article 61 of Organic Law 6/1985 of 1 July, on the Judiciary—, a transitional provision, a repealing provision and two final provisions.

III

Chapter I establishes the principle of freedom in its three aspects of positive freedom to form, positive freedom to join and negative freedom to belong or participate, and improves the procedures for forming a political party, completing the currently existing provisions, clarifying a number of doubts and overcoming several voids. The Law therefore does not introduce large modifications of substance in this section, respecting the principle of minimum intervention derived from the Constitution itself.

The registration of the founding charter and statute in the Register of Political Parties gives legal status to a political party, makes public its formation and statute, binds the public authorities, and is a guarantee to third parties with dealings with the political party and its members. Said registration must be carried out by the person in charge of the Register within an established and brief period, after which the registration is deemed made.

Among the most salient introductions, it is worth highlighting the restriction on promoters of political parties established in article 2, applicable to persons who have committed specific crimes, as well as the prohibitions regarding the names of political parties contained in section 1 of article 3, the responsibility of promoters established in section 1 of article 4, the provision of a procedure for rectifying formal defects, and the suspension of the registration period in the circumstances described in article 5.

This last article maintains the provision already contained in the previous Law, which lays down that evidence of criminal unlawfulness by a

political party at the time of formation and registration in the Register may lead to a declaration of illegality by a criminal court judge, filed by the Public Prosecutor's Office after receiving a notification by the Ministry of the Interior, and therefore the inadmissibility of the registration.

IV

The biggest changes in the Law are contained in chapter II, from which, as the logical corollary, the new provisions of chapter III are derived.

Chapter II lays down the basic criteria for guaranteeing the constitutional mandate which establishes that the organisation, operation and activity of political parties must be democratic and adapted to that established in the Constitution and the laws, performing, as described in article 9, «the functions constitutionally conferred on political parties in a democratic manner and with utmost respect for pluralism».

On the one hand, with articles 7 and 8, this Organic Law seeks to combine respect for the organisation and functional capacity of political parties through their statutes with several essential requirements to ensure the implementation of democratic principles in their internal organisation and operation. The aim is, first of all, to address the rights of members, but also seeking to «ensure the effective fulfilment of the functions constitutionally and legally conferred on political parties and, secondly, to contribute towards ensuring the democratic functioning of the State» (Constitutional Court Sentence 56/1995 of 6 March).

From this double perspective, the Law envisages an assembly body of a general participative nature, responsible for making the most important decisions in the life of a political party; the free and secret vote, as the ordinary channel for filling management posts; the democratic control of such management posts; certain rights considered basic in any associative setting, to be enjoyed equally, such as the right to participate in elections and be electable in the bodies, and to information on activities, the financial situation and on the persons who make up the management bodies; as well as a number of basic rules regarding the operation and system of the meetings of the collegiate bodies.

Article 9 endeavours to ensure political party respect for democratic principles and human rights. To do this, in view of the generic wording of the Law hereby repealed, this Organic Law establishes a detailed list of the types of misconduct which most notoriously infringe these principles, on the basis of two fundamental principles worth a brief mention.

The Law elects, first of all, to contrast the democratic nature of a political party and its respect for the constitutional values not on the basis of the ideas or aims proclaimed by the party, but its activity as a whole. In this manner, the only aims explicitly vetoed are those deemed to be criminally unlawful.

It is well known that this is not the only choice offered by comparative law models. The need to defend democracy from certain odious aims and methods, to preserve its constituting clauses and the fundamental aspects of the rule of law, the obligation of public authorities to ensure respect for the basic rights of citizens, or the consideration of political

parties as subjects obliged to perform specific constitutional functions, for whose purpose they are given a privileged status, have led some legislations to categorically lay down a strict duty of observance, establish an even greater adherence to the constitutional order and, moreover, claim a positive duty to play an active role in defending and teaching democracy. Duties which, when infringed, exclude political parties from the legal and democratic systems.

However, in contrast with other legislations, this Law begins by considering that any project or objective is compatible with the constitution, provided that it is not defended through an activity that breaches the democratic principles or the fundamental rights of citizens.

As mentioned in the statement of motives of Organic Law 7/2000 of 22 December, it is clearly not a question of prohibiting the defence of ideas or doctrines, no matter how far removed from the constitutional framework, even if they put it in question.

We could therefore conclude, without prejudice to other models, that this Law holds a balanced position, combining with extreme prudence the freedom inherent in the maximum degree of pluralism with respect for human rights and protection of democracy.

This approach is confirmed through the second principle taken into consideration, that of avoiding illegalisation for isolated misconduct, once again except of a criminal nature, requiring instead repeated or joined actions which unequivocally show a track record of breakdown of democracy and offence against the constitutional values,

the democratic method and the rights of citizens.

This is addressed in paragraphs a), b) and c), section 2, article 9, clearly establishing the boundary between organisations which defend their ideas and programmes, no matter what they may be, scrupulously respecting the democratic methods and principles, and others which base their political action on complicity with terror, violence, violation of the rights of citizens or the democratic method and principles.

V

Having established the duty of political parties to respect the democratic principles and constitutional values, and outlined the evidentiary elements which establish when a political party has breached those principles and values and therefore must be declared illegal, chapter III of the Law establishes the existing legal safeguards for defending the rights and constitutional principles against the actions of political parties. Obviously, the starting point is the one established in the Constitution: only the judicial authority is competent to control the illegality of their actions or to decree, in the face of repeated and serious violations, the dissolution or suspension of the political party concerned.

It is well known that case law has already clarified the cases where access to the civil jurisdiction is appropriate, in connection with the law suit intensions derived from the private transactions of political parties or filed by their members in connection with their internal operations, and the cases where the competent jurisdiction is the contentious-administrative, concerning issues arising from administrative procedures derived from the Law. In the same way, the Penal Code and the Law on

Criminal Procedure nowadays clarify the cases where the dissolution or suspension of a political party through the criminal jurisdiction is appropriate and the procedure to follow to ensure that such an important decision is implemented with all the guarantees.

Consequently, the main change introduced here is the regulation of the competent jurisdiction and procedure for the judicial dissolution of a political party on the grounds of failing to respect the democratic principles and human rights, a procedure already announced in the Law hereby repealed, although never developed.

The Organic Law solves this serious situation with the general criteria that prevails in the constitutional framework of the structure and operation of political parties, i.e., stating that it can only be done through a judicial resolution. As explained in Constitutional Court Sentence No. 3/1981 of 2 February, «the Constitution, and also ordinary legislation, solely entrusts the Judiciary with the function of issuing a judgment on the legality of a political party. Turning to the Judiciary, which can decree, as mentioned above, the provisional suspension or, as a last resort, the dissolution of a political party, is precisely the means held by the State to defend itself when attacked by a political party which, through the content of its statute or its actions, regardless of the first, attempts against its security».

The text establishes that, given the constitutional importance and relevance of political parties and, moreover, the decisions affecting the declaration of their illegality or justifying their dissolution, the Special Chamber of the Supreme Court, provided for in article 61 of the Organic Law on the Judiciary, is the competent body to dissolve a political

party for serious misconduct which contravenes the Constitution. As explained in a ruling of 9 July 1999 by this very Chamber «for its composition, this Special Chamber symbolises the Full Bench of the Supreme Court. It is, in a manner of speaking, a “reduced” full bench, given that its composition includes the President of the Supreme Court and all the Chambers listed in article 55 of the Organic Law on the Judiciary which, as a whole, make up the Supreme Court, through their respective Presidents and Senior Judges, the longest serving and the most recent. The purpose of highlighting this here is to emphasise that, due to its significant composition, the Chamber mentioned in article 61 of the Organic Law on the Judiciary holds a “status” of supremacy in relation to ordinary Chambers, in terms of the definition of its competencies and those of ordinary Chambers...».

For said Chamber to examine whether the operation and activities of a political party adhere to the democratic principles, a specific and preferential judicial process, comprised of a single proceeding, is established. The process may only be prompted by the Public Prosecutor’s Office and the Government, on their own initiative or at the request of the Chamber of Deputies or the Senate. Said procedure is configured in a classical manner, on the basis of documentation, with a series of conventional steps (allegations, evidence, new allegations and sentence) which, owing to the time frames and structure, combine the principles of legal certainty and the right of defence with the principle of promptness, endeavouring to ensure that the uncertainty which may arise as a result of the initiation of the judicial process is not aggravated by a drawn-out process.

The sentence passed by the Special Chamber may not be appealed, without prejudice, as the case may be, to an appeal to the Constitutional Court on grounds of violation of rights and liberties, and the sentence will be enforceable as soon as notified.

Lastly, article 12 gives details of the effects of the judicial dissolution of a political party. After the sentence is notified, all the activities of the political party concerned will be immediately stopped and deemed fraudulent. Consequently, the formation of any organisation which continues or succeeds a party declared illegal and dissolved will not be accepted. The dissolution will also mean the initiation of a liquidation of assets process, and the resulting net balance will be assigned to initiatives of social or humanitarian interest.

VI

The regulation contained in this Organic Law is rounded off with referrals to other legal regulations on issues related to the funding of political parties (chapter IV) and with several complementary provisions which, among other things, enable to adapt to the new Law the provisions of the Organic Law on the Judiciary (first additional provision, so that the Special Chamber of the Supreme Court can hear these cases), and the Organic Law on the General Electoral System (second additional provision, to lay down that establishing groups of voters during an electoral period to succeed, de facto, a dissolved or suspended political party is deemed fraudulent and, therefore, inadmissible).

On the subject of funding, it is worth highlighting that the referral is made to the Law on the Funding of Political Parties, but also to the

accreditation and responsibilities system established in Organic Law 2/1982 of 12 May, on the Court of Auditors, and in Law 7/1988 of 5 April, on the Operation of the Court of Auditors.

Lastly, with regard to the competence of the Special Chamber, the Law carries the guarantee that this is the competent Chamber to hear and resolve cases of fraud, either on the basis of its condition of Sentencing Court (sections 2 and 3 of article 12), the express call hereby introduced into the electoral legislation to resolve appeals against the establishment or not of groups of voters (second additional provision), or that established in section 2 of the sole transitional provision, regarding the succession of political parties to avoid the effects of this Law.

CHAPTER I

On the formation of political parties

Article 1. Freedom to form and join.

1. Spaniards are free to form political parties, in compliance with that set forth in the Constitution and this Organic Law.

2. Joining a political party is a free and voluntary decision. Nobody can be forced to form or join a political party.

3. Political parties may form and register federations, confederations and unions of parties, in compliance with that set forth in this chapter and on the express agreement of its competent bodies.

Article 2. Capacity to form.

1. The promoters of a political party must be individuals of legal age in full enjoyment and exercise of their rights, not subject to any legal condition on the exercise of such rights, who have

not been criminally condemned for illegal association or for any of the serious crimes set forth in Titles XXI - XXIV of the Penal Code. This last cause of incapacity shall not affect individuals who have been judicially rehabilitated.

2. Formed political parties may establish the formation and recognition of youth organisations in their statute.

Article 3. Formation and legal status.

1. The formation agreement must be formalised through a founding charter, which must be notarised and always contain the personal identification of the promoters, the name of the political party to be formed, the members of the provisional management bodies, the address, and the statute on the basis of which the political party is to be governed.

The name of a political party may not include terms or expressions that may lead to error or confusion regarding its identity or which contravene the laws or the fundamental rights of citizens. Moreover, the name may not coincide, be similar to or identified with, even phonetically, the name of any other political party previously registered in the Register or declared illegal, dissolved or suspended as a result of a judicial decision, the identification of individuals, or the name of pre-existing entities or registered trademarks.

2. Political parties acquire legal status on registering the party in the Register of Political Parties which, for such purposes, will be in place in the Ministry of the Interior, after presenting the founding charter signed by the promoters, together with the documents certifying the fulfilment of the requirements established in this Organic Law.

Article 4. Registration in the Register.

1. The promoters of a political party will take all the necessary steps to register the party. The promoters of an unregistered political party will be personally, jointly and severally liable for any obligation assumed with third parties if they stated that they were acting on behalf of the party.

2. Within twenty days of presenting the full documentation in the Register of Political Parties, the Ministry of the Interior will register the political party in the Register. However, this twenty-day period may be suspended if the Ministry deems it necessary to initiate any of the procedures set forth in the following article.

3. Except in the above-mentioned cases of suspension of the twenty-day period, after said period available to the Ministry of the Interior for registering the party, the registration will be deemed made, thereby conferring legal status to the political party, making the foundation charter and the statute public, binding the public authorities, and offering a guarantee to third parties with dealing with the party and to its members.

4. The registration of the political party in the Register will be valid indefinitely, as long as its suspension or dissolution is not recorded in the Register. The latter may take place if the party notifies the decision to dissolve the party, made in accordance with the provisions of its statute, or if judicially declared illegal and dissolved or suspended. All of which without prejudice to that established in section 6, article 10, and in terms of the scope and effects of the suspension, in section 8, article 11 of this Organic Law.

Article 5. Examination of registration requirements.

1. When formal defects are found in the founding charter or the accompanying documentation, or when the promoters lack capacity, the Ministry of the Interior will make it known to the interested parties so that they may rectify such defects. In this case, the registration period will be suspended as of the moment of the notification and will be resumed again once the defects are duly corrected.

2. When reasonable grounds for suspicion of criminal unlawfulness are found in the documentation presented, the Ministry of the Interior will make it known to the Public Prosecutor's Office within the twenty-day period referred to in the previous article, by means of a properly reasoned decision accompanied by the available items of evidence.

3. Within a period of twenty days from receipt of the communication referred to in the previous section, depending on whether or not it finds that there is sufficient evidence of criminal unlawfulness, the Public Prosecutor's Office will decide to take the necessary legal action in the criminal jurisdiction or to return the communication to the Ministry of the Interior so that it may go ahead with the registration.

4. The communication to the Public Prosecutor's Office by the Ministry of the Interior will mean the suspension of the period established in section 2 of the previous article until the communication alleging insufficient evidence of criminal unlawfulness is returned to the Ministry of the Interior or until the Criminal Judge adopts a decision on the appropriateness of the registration or, as the case may be, as a precautionary measure, on the

provisional resumption of the registration period. The communication and the respective suspension of the registration period will be immediately notified to the interested promoters.

5. The administrative proceedings associated with the registration of the political party may be appealed in the contentious-administrative jurisdiction, in accordance with the provisions of the Law on the Contentious-Administrative Jurisdiction.

6. When endeavouring to register in the Register of Political Parties a political party which seeks to continue or succeed the activity of another political party declared illegal and dissolved, action will be taken against that party in accordance with that set forth in article 12 of this Organic Law.

CHAPTER II

On the organisation, operation and activities of political parties

Article 6. *Democratic and legality principles.*

In their organisation, operation and activities, political parties shall adhere to the democratic principles and that established in the Constitution and the laws.

Article 7. *Organisation and operation.*

1. The internal structure and operation of political parties must be democratic.

2. Without prejudice to their internal organisation capacity, political parties must have a general assembly comprised of all their members, who may act in person or through representatives. As the party's highest governing body,

the general assembly will be responsible for adopting the party's most important agreements, including its dissolution.

3. The management bodies of political parties will be established in the statute and must be filled by means of a free and secret vote.

4. The statute or its internal enabling regulations must establish: a sufficient notice period of meetings to give the collegiate bodies enough time to prepare the issues to be addressed; the number of members required to include issues in the agenda, rules of deliberation which allow room for contrasting ideas; and the majority required to adopt agreements. As a general rule, the latter will be a simple majority of those present or represented.

5. The statute must also provide for democratic control procedures of elected leaders.

Article 8. *Rights and duties of members.*

1. Members of political parties must be individuals of legal age with full capacity to act. They shall all have equal rights and duties.

2. The statute will have a detailed list of the rights of members, including, in any event, the following:

a) To participate in the activities of the party and in the governing and representation bodies, to exercise the right to vote, and to attend the general assembly, in accordance with the statute.

b) To be voters and be electable for the posts in the party.

c) To receive information on the composition of the management and administration bodies, the decisions

adopted by the management bodies, the activities carried out and the financial situation.

d) To challenge agreements adopted by the management bodies which are considered an infringement of the Law or the statute.

3. Expulsion from the party and other sanction measures which deprive members of their rights may only be imposed through proceedings where both parties are present. The members affected must be guaranteed the right to be informed on the events giving rise to the measures, the right to be heard prior to adopting the measures, the right to a justified reason for the agreement to impose a sanction, and the right to file, as the case may be, an internal appeal.

4. Members of a political party shall fulfil the obligations described in the provisions of the party's statute and, in any event, the following:

a) Share the aims of the party and co-operate in achieving those aims.

b) Respect that provided for in the statute and the laws.

c) Accept and comply with the agreements duly adopted by the management bodies of the party.

d) Pay the fees and other contributions which, in accordance with the statute, are payable by each member.

Article 9. *Activity.*

1. Political parties shall exercise their activities freely and, in doing so, must respect the constitutional values, i.e., the democratic principles and human rights. They will perform the functions constitutionally conferred on them

democratically and with full respect for pluralism.

2. A political party will be declared illegal when its activity violates the democratic principles, particularly when through its activity the party seeks to deteriorate or destroy the system of liberties or disable or eliminate the democratic system through any of the following conduct, carried out in a repeated and serious fashion:

a) Systematically violate the fundamental rights and freedoms, promoting, justifying or exculpating offences against the lives or integrity of individuals, or excluding or persecuting individuals for their ideology, religion, beliefs, nationality, race, sex or sexual orientation.

b) Encourage, support or legitimate violence as a means of achieving political objectives or deteriorate the right conditions for exercising democracy, pluralism and political freedoms.

c) Supplement and politically support the action of terrorist organisations in achieving their objectives of subverting the constitutional order or seriously disturbing the public peace, attempting to subject public authorities, specific individuals or groups of society or the population as a whole to a climate of terror, or contributing to aggravate the effects of terrorist violence and terror and the intimidation generated by it.

3. It shall be deemed that the circumstances described in the previous section are present in a political party when any of the following conduct is repeated or joined:

a) Giving express or implicit political support to terrorism,

legitimizing terrorist actions to achieve political objectives outside the peaceful and democratic channels, or exculpating and minimising their meaning and the resulting violation of fundamental rights.

b) Backing violent action with programmes and initiatives aimed at encouraging a culture of confrontation and civil unrest linked to the activity of terrorists, or aimed at intimidating, dissuading, neutralising or socially isolating those who oppose violence, forcing them to live in an environment of coercion, fear, exclusion or basic deprivation of freedoms, particularly, the freedom to voice an opinion and participate freely and democratically in public issues.

c) Regularly including in its management bodies or electoral lists individuals condemned for terrorist crimes who have not publicly repudiated terrorist aims and means, or holding a large number of members who are also members of organisations or entities associated with a terrorist or violent group, unless the party has adopted disciplinary measures against such members conducive to expulsion.

d) Using as instruments of the party's activity, jointly with the party's own instruments or instead of them, symbols, messages or elements that represent or are identified with terrorism or violence as well as with conduct associated with terrorism or violence.

e) Assigning, in favour of terrorists or those co-operating with them, the rights and privileges conferred on political parties by the legal system and, specifically, the electoral legislation.

f) Regularly co-operating with entities or groups which systematically

act in agreement with a terrorist or violent organisation, or protecting or supporting terrorism or terrorists.

g) Giving support, from the institutions they are governing in, to the entities mentioned in the previous paragraph, through administrative, economic or any other type of measures.

h) Promoting, backing or participating in activities aimed at rewarding, honouring or recognising terrorist or violent actions or those who perpetrate them or cooperate in them.

i) Backing actions of disorder, intimidation or social coercion associated with terrorism or violence.

4. To appreciate and assess the activities mentioned in this article, as well as the continuity or repetition of such activities throughout the history of a political party, even after changing its name, the decisions, documents and communications of the party, its management bodies and its parliamentary and municipal Groups will be taken into account, as well as its public events and calls for citizen action, demonstrations, initiatives and public commitments of its leaders and members of its parliamentary and municipal Groups, the proposals presented in and outside the institutions, and the significantly repeated attitudes of its members or candidates.

Likewise, the administrative sanctions imposed on the political party or its members and the criminal sentences handed out to its leaders, candidates, elected posts or members for the crimes typified in Titles XXI - XXIV of the Penal Code, without the party having taken disciplinary measures against them conducive to expulsion, will also be taken into account.

CHAPTER III

On the judicial dissolution or suspension of political parties

Article 10. *Judicial dissolution or suspension.*

1. As well as on the decision of its members, agreed on the basis of the causes and through the procedures established in its statute, a political party may only be dissolved or, as the case may be, suspended on the decision of the competent judicial authority and according to the terms set forth in sections 2 and 3 of this article. The dissolution will take effect as soon as recorded in the Register of Political Parties, after receiving the notification from the political party or the judicial body responsible for decreeing the party's dissolution.

2. The judicial dissolution of a political party shall be agreed by the competent jurisdictional body in the following cases:

a) When the party engages in events classed as illegal association in the Penal Code.

b) When the party continuously, repeatedly and seriously infringes the requirement of a democratic internal structure and operation, in accordance with that set forth in articles 7 and 8 of this Organic Law.

c) When the party's activity repeatedly and seriously breaches the democratic principles or endeavours to deteriorate or destroy the system of freedoms or disable or eliminate the democratic system through the conduct referred to in article 9.

3. The judicial suspension of a political party shall only be appropriate if so established in the Penal Code. It may also be agreed as a precautionary measure by virtue of that set forth in the Law on Criminal Procedure or in the terms of section 8, article 11 of this Organic Law.

4. The event provided for in paragraph a), section 2 of this article shall be judged by the competent judge in the criminal jurisdictional system, in accordance with that set forth in the Organic Law on the Judiciary, the Law on Criminal Procedure and the Penal Code.

5. The events provided for in paragraphs b) and c), section 2 of this article shall be judged by the Special Chamber of the Supreme Court, regulated in article 61 of the Organic Law on the Judiciary, in accordance with the procedure established in the following article of this Organic Law, which will be of a preferential nature.

6. The possible coincidence in time of the judicial procedures provided for in the previous sections 4 and 5 of this article against the same political party shall not interfere in the continuation of both until their completion, each producing their respective effects. On the other hand, the voluntary dissolution of a political party may not be agreed if a judicial declaration process of illegality has been initiated against that party as per section 4 or 5, or both.

Article 11. *Procedure.*

1. The Government and the Public Prosecutor's Office are legitimated to request the declaration of illegality of a political party and its subsequent dissolution, by virtue of that established

in paragraphs b) and c), section 2 of the previous article of this Organic Law.

The Congress of Deputies or the Senate may press the Government to request the illegalisation of a political party. In which case, the Government shall be obliged to present the respective illegalisation request after deliberation in the Council of Ministers, on the grounds listed in article 9 of this Organic Law. The processing of this agreement by the Bureaus of the Congress of Deputies and the Senate shall be in line with the established procedure.

2. The action through which the declaration referred to in the previous section is sought will be initiated through a complaint presented in the Special Chamber of the Supreme Court provided for in article 61 of the Organic Law on the Judiciary, attaching to the complaint the documents supporting the grounds for the illegality.

3. The Chamber will immediately communicate the complaint to the affected political party, citing it to appear before the Chamber within eight days. Once the party has appeared or failed to appear in due time and form, the Chamber will analyse whether or not it gives leave for the case to proceed, being able to refuse it in the following cases by means of a court order:

a) If the complaint was filed by an individual not legitimated to file the complaint or not duly represented.

b) If the substantive or formal requirements are clearly not met.

c) If the complaint is clearly groundless.

In the event of any of the above, the problem will be made known to the

parties so that they may present allegations within the common ten-day period.

4. Once the Chamber has given leave for the case to proceed, if the defendant has already appeared before the Chamber, the latter will be called to answer the complaint within twenty days.

5. If the parties have provided so in their statements of claims or answers or the Chamber deems it necessary, a period established for producing evidence will be initiated, which will be governed, in terms of time frames and procedures, by the rules which on this subject are established in chapters V and VI, Title I, Book II of the Law on Civil Procedure.

6. The parties will be notified of the evidence produced and may present allegations on that evidence within the next twenty days, after which time, regardless of whether or not allegations are presented, the process will be ready for judgement and the sentence must be passed within twenty days.

7. The sentence passed by the Special Chamber of the Supreme Court, which may declare the dissolution of the political party or throw the complaint out, may not be appealed, without prejudice, as the case may be, to an appeal to the Constitutional Court on grounds of violation of rights and liberties, and the sentence will be enforceable as soon as notified. If the dissolution of the party is decreed, the Chamber will order the cancellation of the respective registration in the Register of Political Parties, and the ruling will produce the effects determined in the following article of this Organic Law. If the complaint is thrown out, it may only be filed again if new elements of fact are

presented to the Supreme Court, which must be of sufficient substance to be able to carry out assessments of the illegal activity of the party other than those already contained in the sentence.

8. Over the length of the judicial process, either on its own initiative or at the request of one of the parties, the Chamber may adopt any of the precautionary measures provided for in the Law on Civil Procedure, in accordance with the procedure established in said Law. In particular, the Chamber may agree the provisional suspension of the activities of the party until a sentence is passed, with the scope and effects that it deems opportune for the purpose of safeguarding the general interest. In which case, the Chamber shall order the respective preventive annotation in the Register of Political Parties.

Article 12. *Effects of the judicial dissolution.*

1. The judicial dissolution of a political party will produce the effects provided for in the laws and, in particular, the following:

a) After the dissolution sentence has been notified, the activity of the dissolved political party will be immediately stopped. Failure to comply with this provision will give rise to liability, in accordance with that established in the Penal Code.

b) Any acts executed with abuse of law or improper use of legal status will not impede the due application of the dissolution. Forming a new political party or using another already registered in the Register of Political Parties which continues or succeeds the activity of an

illegal and dissolved party will be deemed fraudulent and inappropriate.

c) The dissolution will give rise to the initiation of an asset liquidation procedure, carried out by three liquidators appointed by the sentencing Chamber. The resulting net balance will be assigned by the Treasury to activities of social and humanitarian interest.

2. In the process of the execution of the sentence, it is the duty of the sentencing Chamber to ensure that all the effects established in the laws with regard to the dissolution of a political party are observed and executed.

3. In particular, after hearing the interested parties, it is the duty of the sentencing Chamber to declare the inappropriateness of the continuity or succession of a dissolved political party referred to in paragraph b), section 1. In assessing that connection, the Chamber will take into account substantial similarities between both political parties in their structures, organisation and operation, the persons who comprise, govern, represent or administer them, the origin of their funding or materials, as well as any other relevant circumstance, such as their readiness to support violence or terrorism, which enable the Chamber to assess said continuity or succession by comparing those facts with the information and data available to the Chamber during the process in which the illegalisation and dissolution were decreed. As well as the parties to this process, the Ministry of the Interior and the Public Prosecutor's Office may press the sentencing Chamber to adopt a decision, if the political party concerned attempts to register the party in the Register of Political Parties, as described in articles 4 and 5 of this Organic Law.

4. The sentencing Chamber will reject in a reasoned manner requests, incidents and pleas presented with clear abuse of law or entail improper use of legal status or abuse of the process of the court.

CHAPTER IV

On the funding of political parties

Article 13. *Funding.*

1. The funding of political parties will take place in accordance with that provided for in Organic Law 3/1987 of 2 July, as regards the Funding of Political Parties.

2. In accordance with the above-mentioned Law and that established in Organic Law 2/1982 of 12 May, on the Court of Auditors, and in Law 7/1988 of 5 April, on the Operation of the Court of Auditors, political parties assume the formal and personal obligations related to the accreditation of aims and the fulfilment of prior requirements established in the above-mentioned laws with regard to the control of public funds received.

First additional provision. *Modification of Organic Law 6/1985 of 1 July, on the Judiciary.*

A new number 6 is introduced into section 1 of article 61 of Organic Law 6/1985 of 1 July, on the Judiciary, with the following content:

«6. On the declaration processes of illegality and subsequent dissolution of political parties, in accordance with that established in Organic Law 6/2002 of 27 June, on Political Parties.»

Second additional provision.

Modifications of Organic Law 5/1985 of 19 June, on the General Electoral System.

1. A new section 4 is introduced into article 44 of Organic Law 5/1985 of 19 June, on the General Electoral System, with the following content:

«4. Groups of voters which, in fact, are there to continue or succeed the activity of a political party judicially declared illegal and dissolved or suspended may not present candidates. For this purpose, any substantial similarities in their structures, organisation and operation will be taken into account, as well as the persons who comprise, govern, represent or administer them, the origin of their funds or materials, and any other relevant circumstance, such as their readiness to support violence or terrorism, which can help determine such continuity or succession.»

2. A new section 5 is introduced into article 49 of Organic Law 5/1985 of 19 June, on the General Electoral System, with the following content:

«5. The appeals provided for in this article will be applicable in cases of proclamation or exclusion of candidates presented by the groups of voters referred to in section 4, article 44 of this Organic Law, with the following exceptions:

a) The appeal referred to in the first section of this article will be filed in the Special Chamber of the Supreme Court regulated in article 61 of the Organic Law on the Judiciary.

b) Those who are legitimated to request the declaration of illegality of a political party will also be legitimated to file the appeal, in accordance with that established in section 1, article 11 of the Organic Law on Political Parties.»

Third additional provision.
Supplementarity.

In the registration of parties procedure regulated in chapter III, Law 30/1992 of 26 November, on the Legal System of Public Administrations and on Common Administrative Procedure, will also be applicable in all matters not regulated in this Organic Law and its implementation regulations.

Sole transitional provision.

1. Political parties registered in the Register of Political Parties held at the Ministry of the Interior when this Organic Law enters into force will be subject to this Law and will preserve their legal status and full capacity, without prejudice to, if necessary, having to adapt their statute within one year.

2. For the purpose of applying that provided for in section 4 of article 9 to activities carried out after the entry into force of this Organic Law, forming a political party, immediately before or after the above-mentioned entry into force, which continues or succeeds the activity of another with the intention of avoiding the applicability of the provisions of this Law to the former party will be considered fraud. This shall not impede such application, and action will be taken against the party in accordance with that established in articles 10 and 11 of this Organic Law, being the responsibility of the Special

Chamber of the Supreme Court to assess such continuity or succession and the intention to commit fraud.

Sole repealing provision.

All laws conflicting with this Organic Law, in particular, Law 54/1978 of 4 December, on Political Parties, and the articles in force of Law 21/1976 of 14 June are hereby repealed.

First final provision. *Issuance of enabling regulations.*

The Government is hereby empowered to issue all the necessary provisions to enable the implementation and development of this Law, especially with regard to the founding charter and its supplementary documentation and the Register of Political Parties provided for in chapter I.

Second final provision. *Entry into force.*

This Organic Law will enter into force the day after it is published in the «Official State Gazette».

Therefore,

I call on all Spaniards, individuals and authorities, to observe and ensure the observance of this Organic Law.

Madrid, 27 June 2002

JUAN CARLOS R.

The acting Prime Minister,
MARIANO RAJOY BREY