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Comisión de Instituciones e Interior

POLITICAL STATUTE OF THE COMMUNITY OF THE BASQUE COUNTRY

Passed by absolute majority of the Basque Parliament in plenary session held on December 30, 2004

Agreement of the Basque Parliament in plenary session

The Basque Parliament, at the plenary session held on December 30, 2004, and after debating the issue, approved by absolute majority the proposal to reform the Political Statute of the Basque Community, under the terms indicated in the Certification published in the Official Gazette of the Basque Parliament dated January 3, 2005, which is inserted below.





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PREFACE

The Basque People or Euskal Herria is a People with its own identity within the community of European peoples, repository of a singular historical, social and cultural heritage, distributed geographically in seven Territories, currently articulated in three different legal-political regions, and located in two different States.

The Basque People have the right to decide their own future, as determined by absolute majority of the Basque Parliament on February 15 1990, and in accordance with the right to self-determination of all peoples, recognised at an international level in the International Agreement of Civil and Political Rights and in the International Agreement of Economic, Social and Cultural Rights.

The exercise of the right of the Basque People to decide their own future is based on a respect for the right of the citizens of the different legal-political regions in which it is currently articulated, to be consulted in order to decide their own future. In other words, by respecting the decisions of the citizens of the present Autonomous Basque Community, the decisions of the citizens of the Autonomous Community of Navarre, and the decisions of the citizens of the Basque Territories of Iparralde –Lapurdi, Behe Nafarroa, and Zuberoa.

In accordance with these three premises and forming an integral part of the Basque People, the citizens of the present Autonomous Community of the Basque Country, made up of the Provinces of Araba, Bizkaia and Gipuzkoa, in the exercise of our democratic will and in virtue of a respect for and modernisation of our historical rights, set out in the Gernika Statute and in the Spanish Constitution, declare our wish to draw up a new political agreement for coexistence.

This political agreement is based on the proposal for a new political model of relations with the Spanish State based on free association and is compatible with the possibilities of developing a pluri-national and asymmetric State.

Accordingly, we, the citizens of Araba, Bizkaia and Gipuzkoa, ratify the following



POLITICAL STATUTE

PRELIMINARY HEADING

Article 1.- The Community of the Basque Country

As an integral part of the Basque People, or Euskal Herria, the citizens of the Basque Territories of Araba, Bizkaia and Gipuzkoa, in the exercise of their right to decide, freely and democratically, their own framework of organisation and political relations, and as an expression of the Basque nation and guarantee of self-government, form a Basque Community, freely associated with the Spanish State, within a framework of free solidarity with the peoples who form part of same, under the name of the Community of the Basque Country or the Basque Country, for the purposes of this Statute.

Article 2.- Territory

1. Recognition is given to the right of the Basque Territories of Araba, Bizkaia and Gipuzkoa, Lapurdi, Nafarroa, Nafarroa Beherea and Zuberoa to associate within a territorial framework of relations, in accordance with the wishes of their respective inhabitants.

2. The territorial boundaries of the Community of the Basque Country shall include the geographical and administrative limits that correspond to the current boundaries of the Historical Territories of Araba, Bizkaia and Gipuzkoa, without detriment to the stipulation contained in the fourth transitory provision of the Constitution.

3. The enclaves of Trebiñu and Villaverde de Turtzioz may join the Community of the Basque Country when they agree, freely and democratically, to do so, in accordance with the following procedure:

- a) The Town Halls interested in joining must make their application for entry.
- b) Agreement by the inhabitants of the Municipalities of the enclave, through a referendum to be held for this purpose, approved by a majority of valid votes.
- c) Approval by the Basque Parliament and the Parliament of the Central Government of the State.
- d) Should any of the institutions mentioned in the previous paragraph reject integration of the enclave within the Community of the Basque Country, a mixed committee shall be set up between the affected parties, with representatives designated by the aforementioned institutions and representatives of the municipal authorities of the enclave, in order to negotiate the segregation, and, if appropriate, controversial incorporation, over a period of six months, in order to establish the political conditions that will allow the materialisation by common consent of the democratic will of the inhabitants of the enclave.

Article 3.- Symbols

1. The Basque Country shall have its own symbols representing its national identity both within the Country and beyond its borders. The use and precedence of political symbols in the Basque Country shall be governed through a law of the Basque Parliament.

2. The flag of the Basque Country consists of a green x-shaped cross, a white cross and red background. Likewise, recognition is given to the flags and insignias of the Historical Territories that form part of the Basque Country.



3. The Basque Parliament shall be responsible for passing any modifications that may be considered advisable with regard to the linguistic denomination of the Basque Country or its own institutions. Likewise, the respective Institutions of its Historical Territories shall be responsible for approving any modifications considered to be advisable with regard to the linguistic names of Araba, Bizkaia and Gipuzkoa, and those of its provincial institutions.

Article 4.- Basque citizenship and nationality

1. All those persons resident in any of the municipalities of the Community of the Basque Country have the right to Basque citizenship. All Basque citizens, shall have, without any kind of discrimination, the rights and obligations recognised in this Statute and current legislation, within the Community of the Basque Country.

2. Basque nationality is recognised officially for all Basque citizens in accordance with the pluri-national nature of the Spanish State. The acquisition, conservation and loss of Basque nationality, as well as its accreditation, shall be regulated by in the Law of the Basque Parliament in accordance with the same requirements demanded in the Laws of the State for Spanish nationality, so that the enjoyment or accreditation of both shall be compatible and shall have the full legal effects determined through a law.

3. No one may be discriminated against because of their nationality nor be arbitrarily deprived of this.

Article 5.- Basque diaspora

1. All persons resident abroad, and their descendants, whose last place of residence was the Community of the Basque Country, and their descendants, may, should they so wish, enjoy Basque nationality and the political rights corresponding to Basque citizens in accordance with the provisions established through a law.

2. Notwithstanding the provisions set out in the previous paragraph, Basque Institutions shall foster social, economic and cultural links with members of Basque groups and centres abroad. Relations with the latter as well as any other rights and services that may be considered to be appropriate shall be regulated through a law of the Basque Parliament.

3. In order to provide members of Basque groups abroad with assistance, Basque Institutions may draw up agreements and cooperation treaties with public and private institutions in the countries in which they are located.

Article 6.- Relations with the Autonomous Community of Navarre

1. The Community of the Basque Country and the Autonomous Community of Navarre may establish any political links and internal relationships at a municipal and territorial level of that they consider to be most appropriate for the development and social, economic and cultural well-being of their citizens, without any limitation other than their own wishes.

2. For this purpose, co-operation agreements and accords may be drawn up between both Communities for the development and management of areas of common interest, including, if appropriate, the possibility of establishing common instruments of co-operation, should this be approved by their respective bodies of self-government. The State shall respect in all cases the drawing up of co-operation agreements and accords between both Communities. The provisions of article 145 of the Constitution shall not, therefore, be applicable to the aforesaid relations.



3. Should the citizens of the Community of the Basque Country and the Autonomous Community of Navarre freely decide, in the future, to associate or set up a joint political structure, a process of political negotiation between their respective institutions shall be established by common agreement in order to articulate, if appropriate, a new framework of organisation and political relations which will be ratified finally by the citizens of both Communities.

Article 7.- Relations with the Basque Territories of Iparralde

1. Basque institutions shall give priority to the relations with the Basque territories of Iparralde, and for this purpose, within the framework of the European Union, measures shall be taken to bring about the signature of any agreements and treaties that may be necessary so that the Basque Territories and Communities located on both sides of the Pyrenees may make use, in the widest and most extensive manner possible, of the potential offered by current or future regulations on cross-border co-operation in order to strengthen the special historical, social and cultural ties between the Community of the Basque Country and the Basque Territories & Communities located within the French State, including the capacity to establish instruments of co-operation at a municipal and territorial level, based on a respect for the wishes of their respective citizens.

2. Within the framework of the provisions of this article, the Community of the Basque Country shall foster the operations of a collaborating body with other Basque territories located within the French State, as well as with the Autonomous Community of Navarre, which shall attend to the common requirements of all the Basque people

Article 8.-The Basque language

1. The Basque language, the language of the Basque People and the patrimony of all the Basque People, shall, together with Spanish, have the status of the official language in the Basque Country, and all its inhabitants shall have the right to speak and use both languages.

2. Taking into consideration questions of socio-linguistic diversity, Basque institutions shall guarantee the use of both languages, governing their official nature, and shall furnish and regulate the measures and means necessary to ensure that these are spoken.

3. No one shall be discriminated against on the grounds of language, and therefore the linguistic rights of all Basque citizens shall be respected.

4. The Royal Academy of the Basque Language-Euskaltzaindia is the official consultative Body in matters relating to the Basque language.

5. As the Basque language constitutes the patrimony of other Basque territories and communities, in addition to the links and correspondence maintained by academic and cultural institutions, the Community of the Basque Country shall draw up agreements and accords to allow cultural relations to be established with the aforementioned territories and communities, in order to safeguard and foster the Basque language.

6. In accordance with its plurilinguistic status, the Spanish State shall respect, foster and protect the Basque language in all institutional areas, as well as in the European Union and international forums.



Article 9.- The Values of Basque Self-government

The exercise of Basque self-government shall be governed according to the values of liberty, justice, equality and political plurality; according to the recognition and guarantee of the fundamental rights and obligations set out in the canons of universal declarations of human rights; as well as according to the essential principles of a social and democratic state, the main aims of which include the promotion of a peace loving society that practices tolerance and solidarity.

Article 10.-Human rights and liberties

1. Basque citizens are entitled to the fundamental Rights and Obligations set out in the Constitution, the rights and obligations established in the treaties of the European Union, that correspond to them as European citizens, as well as the human, individual and collective rights recognised internationally and, especially, those expressly contained in the Universal Declaration of Human Rights, the International Agreement on Civil and Political Rights, the International Agreement of Economic, Social and Cultural Rights, and the European Agreement for the protection of Human Rights and the Fundamental Liberties.

2. The Basque Parliament shall take into consideration that the defence and protection of human rights and public liberties of all persons are priority issues for Basque institutions. A Law of the Basque Parliament shall regulate the creation of the Basque Observatory of human rights and liberties, as an independent instrument to safeguard the defence of all persons, without distinction.

Article 11.- Exercise of the fundamental rights and duties of Basque citizens

1. Within the bounds of their powers, Basque authorities shall:

- a) Develop, safeguard and guarantee the adequate exercise of the fundamental rights and obligations of their citizens.
- b) Facilitate the participation of all citizens in the political, economic, cultural and social life of the Basque Country, preserving the effective equality of men and women in all walks of life.
- c) Adopt any measures intended to promote the conditions required to ensure that the liberty, security and equality of the persons and of the groups of which they form part, are effective and real and to remove any obstacles that might hinder this process.
- d) Make special efforts in order to foster a policy aimed at promoting personal development, by increasing welfare and improving living and working conditions.
- e) Adopt any measures aimed at fostering an increase in employment and economic stability and a just and sustainable economic development.

2. Basque institutions are entrusted with the constitutional development, within the Community of the Basque Country, of the exercise of fundamental rights and obligations that guarantee the representation and participation of citizens in the political, economic and social life of the Country, through political parties, as well as workers unions and business associations.

For this purpose, the system that controls the creation, recognition, organisation and dissolution of political parties, workers syndicates and business associations in the Community of the Basque Country shall be established through a law of the Basque Parliament. The Organic Laws of the State shall guarantee their interlocution and differentiated participation before the Institutions and Bodies of the Administration of the State.



3. The Community of the Basque Country shall have the authority to create and regulate, through a law of the Basque Parliament, the Institution of the Ararteko as a singular body, designated by and attached to the Basque Parliament. The Ararteko shall defend the fundamental rights and obligations of Basque citizens by supervising the activities of public administrations and shall report to Parliament.

-HEADING I.-THE FORMAT OF POLITICAL RELATIONS WITH THE SPANISH STATE AND ITS GUARANTEES

Chapter One The Status of Free Association

Article 12.- Regime of Free Association

The citizens of the Community of the Basque Country, in the free exercise of their right to self-determination and in accordance with a respect for and modernisation of the historical rights included in the first additional provision of the Constitution, accede to self-government through a singular regime of political relations with the Spanish State, based on free association. The Community of the Basque Country and its representative institutions, establish the aforementioned relationship of free association according to precepts of respect and mutual recognition, and without detriment to its revision, as established in this Political Statute, which, for this purpose, shall represent its basic institutional directive.

Article 13.- Democratic exercise of the Right to Decide

1. For the purpose of the democratic exercise of the right of free decision of Basque citizens, from which the democratic legitimacy of this Statute emanates, the Institutions of the Community of the Basque Country have the right to regulate and manage democratic referendums both with regard to matters that fall within the bounds of their authority and any relations they may wish to have with other Territories and Basque Communities, as well as with regard to relations with the Spanish State and its Autonomous Communities, and to relations at a European and international level.

2. The Institutions of the Community of the Basque Country shall regulate within their territory the exercise of the right to hold referendums through a Law of the Basque Parliament and, for this purpose, shall establish the procedures to be followed in each case, the validity of their results and their addition to the legal code.

3. When, in the democratic exercise of free decision, Basque citizens should manifest in a referendum proposed for this purpose, their clear and unequivocal wish, upheld by an absolute majority of votes declared to be valid, to make complete or substantial changes in the format and regime of political relations with the Spanish State, as well as their relations with Europe and the international community, regulated in this Statute, the Institutions of the Basque Community and the State, shall consider themselves obligated to guarantee the negotiation process in order to establish the new political conditions that will allow the materialisation of the democratic will of Basque society by common agreement.



Chapter Two The Guarantees of Self-government

Article 14.- Principles of Political Relations with the State

1. The format of relations between the Community of the Basque Country and the Spanish State considered in this Statute, is subject to the establishment of a system of legal guarantees based on the principles of reciprocal institutional loyalty, co-operation and balance of powers.

2. In virtue of the nature of this format of relations as a political agreement, both the Basque Country and the State shall use all the instruments of co-operation and prevention of conflicts established in this Statute and shall renounce in all cases the establishment or the unilateral legal exercise of coercive measures to oblige compliance by the other party.

3. In general, the State and the Community and the Basque Country shall guarantee the use of mechanisms of prior consultation and charters of cooperation, constituting requirements that the institutions may freely demand of each other in order to obtain the necessary information and collaboration in order to harmonise their respective actions and to prevent potential situations of conflict.

Article 15.-Basque Country-State Bilateral Commission

1. The Basque Country-State Bilateral Commission is set up, formed by an equal number of representatives appointed by the Government of the State and by the Basque Government.

2. The Basque Country-State Bilateral Commission shall deal with and harmonise in general the institutional relations of intergovernmental co-operation and shall have the following functions:

a) Deal with and report on any government bills that affect the development of fundamental rights and obligations.

b) Negotiate normative co-operation requirements with the Parliament of the Central Government or the Basque Parliament when it is seen that the processing of laws, normative provisions or actions with the force of Law might violate the system of relations and the distribution of powers between the State and the Community of the Basque Country.

c) The coordination and monitoring of actions relating to external relations.

d) All those functions that correspond to it in virtue of this Statute.

3. The Basque Country-State Bilateral Commission shall exercise its functions without detriment to other specific organisations set up to coordinate the policies and specific matters provided for in this Statute.

Article 16.-Basque Country-State Court of Conflict

The following special measures of legal and procedural organisation of the Constitutional Court are established with regard to the Community of the Basque Country:

1. A new Special Court of the Constitution Court is created, which will be set up within the Basque Country-State Court of Conflict. This Court shall deal with the declaration of



unconstitutionality procedures and any constitutional conflicts that might arise with regard to the Institutions and Powers of the Community of the Basque Country, assuming for this purpose the powers corresponding to the full session of the Court.

2. The Special Court of the Constitutional Court, set up as a Basque Country-State Court of Conflict, shall be made up of six magistrates. The first three magistrates shall be appointed by the full session of the Court, at the proposal of the Senate, and from among the magistrates that already make up the Court. The remaining three magistrates shall be appointed from outside the Court by the King at the proposal of the Basque Parliament, from among Basque jurists will shall require the same conditions of competence as jurists as the magistrates of the Court. Magistrates shall take turns to act as President of the Special Court, who shall have the casting vote.

3. A new procedure is established for the Constitutional Court to resolve disputes of an institutional nature in which the Basque Government shall take legal action against the Government of the State when the latter declares itself not to have the authority to exercise the powers conferred upon it by the Constitution or Laws with regard to the Community of the Basque Country. The sentence of the Court may declare the application to be either inadmissible or admissible. Should the Court declare the application to be admissible, it shall establish a period of time within which the required powers must be exercised.

4. The Authorities and Institutions of the Community of the Basque Country may exercise before the Court of Conflict any constitutional action in order to debate and resolve matters that affect Basque Self-government as a result of sentences passed in procedures in which they have not played any part. The only procedural step required shall be the presentation of a claim within a period of two months counted as of the publication of such sentences in the Official Gazette of the State, so that the Basque Country-State Court of Conflicts may make its decisions as to the affects produced by the Sentence within the Community of the Basque Country.

5. In virtue of this Political Statute, in the Constitutional procedures in which Basque Institutions take part, the power balance principle shall be guaranteed so that should the Government of the State contest any provisions and resolutions adopted by Basque Institutions, this shall not involve their automatic suspension, as stipulated in article 161.2 of the Constitution.

Chapter Three Modification and Modernisation of the Political Statute

Article 17.- Modification and modernisation procedure

Notwithstanding the specific conditions that govern the democratic exercise of the right to decide, the following procedure shall be applicable to the modification and modernisation of this Political Statute:

- a) The initiative shall be the responsibility of the Basque Parliament at the proposal of 1/5 of its members, of the Basque Government or the Parliament of the Central Government.
- b) The proposal must be passed by an absolute majority of the Basque Parliament.
- c) Once passed, a negotiation process will commence between Basque Institutions and those of the State, which shall be completed within a maximum period of six months.
- d) If an agreement is reached, this must be approved by the Basque Parliament and the Parliament of the Central Government and rectified definitively by Basque society, through a referendum called for this purpose by the Basque Government.



- e) Should an agreement not be reached, the Basque Parliament may request that the Basque Government submit the proposal passed initially for ratification by Basque society through a referendum.
- f) If the proposal is ratified by Basque society, a new negotiation process shall commence with the Institutions of the State in order to add new regulations to the legal code in order to reflect the democratic will of Basque society.

HEADING II.- AUTHORITY IN THE COMMUNITY OF THE BASQUE COUNTRY

Article 18.- Powers of the Basque Country

1. The powers of the Basque Country emanate from its citizens, who have, in all cases, the legitimate right to articulate and exercise these through their own Institutions of Self-government.

2. The Community of the Basque Country exercises Legislative Power, Executive Power and Judicial Power through the Basque Parliament, the Basque Government and its Lehendakari, and the Institutions of the Judicial Power in the Basque Country, based on a respect for the exclusive rights of the Historical Territories and in accordance with the principles of independence and separation of powers on which the democratic system is based.

3. The Basque Institutions and the Institutions of the State shall exercise their respective powers within their corresponding territories, in accordance with the provisions of this Statute, within a bilateral framework of co-operation and mutual respect.

Chapter One Legislative Power. The Basque Parliament

Article 19.- Functions

1. The Basque Parliament exercises the legislative powers of the Community of the Basque Country, approves its budgets and instigates and controls the actions of the Basque Government, without detriment to the power and authority of the Autonomous Institutions of the Historical Territories. Likewise, it shall exercise any other power or authority with which it may be invested by this Statute.

2. The Basque Parliament is also responsible for:

a) Appoint the Senators who are to represent the Community of the Basque Country through the procedure indicated for this purpose in the Law of the Basque Parliament itself, that shall ensure adequate proportional representation.

b) Request that the Government of the State adopt a government bill or refer a private bill to the Committee of the Congress, entrusting members of the Basque Parliament with its defence before Congress.

c) Lodge a remedy of unconstitutionality.

Article 20.- Nature, composition and electoral system

1. The Basque Parliament is inviolable.



2. The Basque Parliament is made up of an equal number of representatives from each Historical Territory elected by universal, free, direct and secret suffrage.

3. The electoral district is the Historical Territory.

4. The elections held in each Historical Territory shall be verified in accordance with criteria of proportional representation.

5. The Basque Parliament shall be elected for a period of four years. The President of the Basque Government may dissolve the Basque Parliament early and call new elections, under the terms established through a law of the Basque Parliament.

6. An Electoral Law of the Basque Parliament shall regulate the election of its members and shall establish the causes of ineligibility and incompatibility that affect positions or posts held within its Territory.

Article 21.- Members of Parliament Statute

1. Members of Parliament represent the inhabitants of the Basque Country.

2. The Parliamentary vote is personal and cannot be delegated to another person.

3. Basque Members of Parliament shall enjoy inviolability, even after having completed their term of office, for any opinions expressed during the exercise of their functions.

4. During their term of office, Basque Members of Parliament shall also enjoy immunity and maybe were arrested only in the case of a blatant crime. They shall not be accused or prosecuted without the prior authorisation of the Basque Parliament.

5. Once the arrest of a Basque Member of Parliament, or any other legal or governmental proceedings that might prevent him/her from completing his/her term of office, is known, the President of the Basque Parliament shall adopt any measures that might be necessary in order to safeguard the rights and prerogatives of the Basque Parliament and of its members.

6. The legal regime concerning the authorisation by the Basque Parliament for the accusation, prosecution, imprisonment and trial of Basque Members of Parliament shall be approved through a law of the Basque Parliament.

7. The authority in order to take decisions relating to criminal acts committed within the territorial boundaries of the Community of the Basque Country, rests with the Higher Courts of Justice of the Basque Country.

Article 22.-Organisation and operation

1. The Basque Parliament shall elect a President, a Committee and the Permanent Council from among its members. It shall operate in Plenary Sessions and Committees. The Parliament shall establish its internal regulations, which shall be passed by an absolute majority of its members. The Parliament shall approve its budgets and the set of regulations that govern the rights and obligations of its personnel.

2. The ordinary periods of parliamentary sessions shall last the period of time established for this purpose by the Regulations of the Basque Parliament.



3. The House shall meet in extraordinary session at the request of the Government, of the Permanent Council or of a third of its members. Extraordinary sessions shall be called in accordance with a determined agenda and shall conclude once all the points on the agenda have been dealt with.

4. The authority to initiate legislation corresponds to members of Parliament, the Government and the Provincial Institutions of the Historical Territories, under the terms established through a law. Members of Parliament may, both in the plenary session and in committees, make requests, ask questions, interpolations and motions under the terms established in regulations.

5. Popular initiatives concerning the presentation of private bills to be processed by the Basque Parliament, shall be regulated by the latter by means of laws, taking into consideration that this is a matter for which Basque Institutions have exclusive authority. Under no circumstances may this law require, in order for a popular legislative initiative to be accepted for processing, a minimum of less than twenty thousand signatures of citizens and shall guarantee, in all cases, the participation of a representative of the popular initiative in the corresponding Parliamentary debate.

6. In the case of and extraordinary and urgent necessity, the Government may announce temporary legislative provisions that will take the form of Decrees-Laws and which will not affect the organisation of the Basic Institutions of the Community of the Basque Country, the rights, obligations and liberties of its citizens, the relations and division of powers with the Historical Territories, nor the internal electoral system.

The Decrees-Laws must be debated and voted on immediately at a full session of Basque Parliament, called for this purpose, should it not be in session, within a period of thirty days following their enactment. Within said period, the House shall give its express decision on their validation or abolition, for which the Regulations shall establish a especial procedure and indictment. Likewise, within the same period mentioned above, these may be processed as bills by the urgency procedure.

7. The Laws of Parliament shall be announced by the Lehendakari who shall order that these be published in the "Official Gazette of the Community of the Basque Country" within a period of fifteen days after their approval.

Chapter Two Legislative Power. The Basque Government and the Lehendakari

Article 23.- Nature and functions

The Basque Government is the collegial body that exercises the executive and administrative powers of the Basque Country.

Article 24.- Organisation

1. The powers of the Government and its organisation, based on the Lehendakari and his Ministers, as well as the regulations that govern the rights and obligations of its members, shall be regulated by the Basque Parliament.

2. Approval of the right of pardon with regard to the citizens of the Basque Country shall correspond to the Basque Government who shall proceed in accordance with the dictates of the law.



Article 25.- Dismissal and responsibility

1. The Basque Government is dismissed after holding parliamentary elections in the case of a loss of parliamentary confidence or due to the resignation or death of the Lehendakari.

2. The outgoing Government shall continue performing its duties until the new Government takes possession.

3. The Government responds politically for its actions in a joint manner, to the Basque Parliament, without detriment to the direct responsibility of each member for his/her respective administration.

4. Doing their mandate, for criminal actions committed within the Community of the Basque Country, the Lehendakari and the Members of the Government, shall not be detained or held except in the case of a flagrant crime, and the Higher Court of Justice of the Basque Country shall be responsible for taking a decision, in all cases, as to their accusation, remanding in custody, trial and judgment. Outside the Territory of the Community of the Basque Country, criminal responsibility shall be demandable in the same terms before the Criminal Court of the Supreme Court.

Article 26.- The Lehendakari

1. The Lehendakari shall be designated by the Basque Parliament from among its members and appointed by the King. The appointment of the Lehendakari shall take effect after he has taken up his post at a ceremony in accordance with Basque traditions and symbols.

2. The Basque Parliament shall determine through a law the manner in which the Lehendakari is elected as well as relations between the Government and Parliament.

3. The Lehendakari appoints and dismisses Government Ministers, directs their activities and represents the highest office in the Community of the Basque Country.

Chapter Three Legislative Power. The Basque Judicial Council

Article 27.- Jurisdictional powers and bodies

1. The highest court in the Basque legal system shall be the Higher Court of Justice of the Basque Country, which shall have authority throughout the Community of the Basque Country for all procedural issues including appeals for annulment, and shall be the highest court of appeal at all jurisdictional levels.

2. The powers of the jurisdictional bodies in the Community of the Basque Country extend to all levels, irrespective of the law applied, the only exception being the jurisdiction of the Supreme Court of the State.

3. With regard to the authority of the jurisdictional bodies in the Community of the Basque Country, the Supreme Court, as the highest body of the Judiciary, shall be responsible for unifying doctrine in the case of the application of law in an unequivocally contradictory manner by several different judicial bodies or with regard to the jurisprudence of the Supreme Court itself, as well as dealing with conflicts of authority and jurisdiction between the judicial bodies of the Community of the Basque Country and other State institutions.



4. Likewise, with respect to the authority of the judicial bodies of the Community of the Basque Country, the previous provisions of this article shall be understood to be without detriment to the jurisdiction of the Constitutional Court to protect basic rights, as well as the European Court of Human Rights currently based in Strasbourg, in accordance with the respective regulations in force.

Article 28.- Administration of the Judiciary. The Basque Judicial Council

1. The administration of the Judiciary in the Community of the Basque Country corresponds to the Basque Institution called the Basque Judicial Council, which shall exercise its powers and functions in close collaboration with the General Council of the Judiciary of the State in order to conserve the principles of unity and jurisdictional independence. The Basque Judicial Council shall exercise its powers without detriment to the powers that correspond to the Presidents of the Courts and Tribunals and heads of other jurisdictional bodies with regard to their own jurisdiction.

2. The Basque Judicial Council shall designate the President of the Higher Court of Justice and he shall also be invested with the power to inspect Courts and Tribunals, as well as consultations and information on issues that effect the Judiciary in the Community of the Basque Country. Likewise, the Basque Judicial Council shall apply the provisions set out in the Laws of the Basque Parliament in accordance with the essential criteria established in the Organic Law of the Judiciary, in subjects dealing with the selection, provision, training, disciplinary regime and retributions of Secretaries, Judges, and Magistrates and Public Prosecutors in the Community of the Basque Country, taking into consideration the preferential nature of a knowledge of Basque legislation and the Basque language.

3. The Basque Judicial Council shall be made up of the President of the Higher Court of Justice of the Basque Country will shall preside over the Council and a group of members, the composition and legal status of which shall be regulated by means of a Law of the Basque Parliament in accordance with its authority and a mixed criteria that will guarantee the election of a part of its members from among Judges and Magistrates who exercise their functions in the Community of the Basque Country.

Article 29.- Tax Ministry

1. The organisation and operation of the Tax Ministry within the Community of the Basque Country shall be governed through a law of the Basque Parliament, which shall confer on this Ministry the defence of all legal issues, through the exercise of any actions that might be vested upon it in accordance with the legal code, at all levels of its jurisdiction.

2. The Attorney General of the Higher Court of Justice of the Basque Country shall be appointed by the Basque Judicial Council and shall have direct authority over the public prosecutor's office in the Community of the Basque Country. Likewise, he shall be responsible for proposing the appointment and training of public prosecutors to be designated by the Basque Judicial Council, as well as the other powers befitting this post.

Article 30.- Administration of Justice

1. The Community of the Basque Country shall exercise within its territory all executive powers as well as those of an organic nature, specified in the legal code with regard to the Administration of justice, in application of the same principles and procedural laws in force in the State in order to guarantee the defence of the rights and obligations of all its citizens.



2. Justice in the Community of the Basque Country shall be gratuitous under legally established conditions and, in all cases, for anyone who can demonstrate insufficient economic means, so that they can be guaranteed the right to a professional and independent defence in all procedures in which this may be required in accordance with the law.

3. Through a Law of the Basque Parliament, the system whereby the citizens of the Basque country will be able to take part in the Administration of Justice through the institution of the Jury will be developed.

4. The Community of the Basque Country has exclusive powers in matters relating to the distribution of courts of law, territorial boundaries and the establishment of capitals, having for this purpose, the power to create new courts and sections and to provide all the judicial bodies with any material, organic and human resources that may be required.

5. Through a law of the Basque Parliament, the corps of civil servants at the service of the Administration of Justice in the Community of the Basque Country shall be created and the set of regulations that govern their rights and obligations shall be established.

6. The precise framework of co-operation shall be established between the Basque Government and the Ministry of Justice for the orderly management of the Administration of Justice in the Community of the Basque Country and its coordination with the State and Europe.

Article 31.- Judicial Police

The Basque Police, or Ertzaintza, when acting as the Judicial Police, shall be at the service of the Judiciary, under the conditions set out in procedural law.

HEADING III.- POLITICAL AND INSTITUTIONAL RELATIONS IN THE COMMUNITY OF THE BASQUE COUNTRY

Chapter One Basque Institutions

Article 32.-Basque Institutions

Basque Institutions shall exercise the powers of the Community of the Basque Country in accordance with the authority vested in them by this Statute and through a law.

For the purpose of this Statute, the Common Basque Institutions shall be considered to be the Basque Parliament, the Basque Government and the Lehendakari, and the Institutions of the Judiciary in the Community of the Basque Country.

Likewise, the Autonomous Institutions of its Historical Territories, the General Councils and the Provincial Councils are also Basque Institutions

In the same way, their Municipal Institutions also form part of the institutional framework of the Community of the Basque Country.





Article 33.- Capital

Designation of the Capital of the Community of the Basque Country, as well as the Headquarters of its Common Institutions, shall be made by means of a Law of the Basque Parliament.

Chapter Two Institutionalisation and internal relations

Article 34.- Historical Territories

1. Each of the Historical Territories that form part of the Community of the Basque Country may conserve and modernise their organisation and Institutions of self-government in accordance with their historical tradition, their respective General Councils and Autonomous Councils are the autonomous institutions of the Historical Territories.

2. For the election of the representative bodies of the Historical Territories, criteria of universal, free, direct and secret suffrage and proportional representation shall be applied, with electoral districts established in such a way as to ensure an adequate representation of all the areas in each Territory.

Article 35.- System of relations and power-sharing

1. Based on a respect for the autonomous regime of the Historical Territories, the system of relations and power-sharing between the Common and Autonomous Institutions shall be governed by the principles of collaboration, solidarity, subsidiarity and the precepts of a federal system.

2. A Law of the Basque Parliament shall articulate the regime of relations and power-sharing between Basque institutions for the exercise of the powers and authority recognised in this Statute.

3. The conservation and modernisation of the framework of powers constituting the regime of powers in each Historical Territory shall be guaranteed in accordance with the following issues and in the application of criteria of improvement and modernisation of their functionality for public policies:

- a) Organisation, arrangement and functioning of their own self-government institutions.
- b) Territorial boundaries at a supra-municipal level that do not exceed the limits of the Territory.
- c) Municipal Electoral System.
- d) Regime of territorial and municipal properties.
- e) Roads and tracks.
- f) Establishment and regulation, within its territory, of the taxation system, as well as the levying, management, settlement, inspection, review and collection of corresponding taxes, within the framework of the taxation powers allocated to Basque Institutions in this Statute, as well as any tax harmonisation, coordination and collaboration regulations established by the Basque Parliament.
- g) All those attributed to it through a law of the Basque Parliament.

4. The Autonomous Institutions shall have financial and budgetary autonomy and shall have their own Treasury Institutions for the adequate exercise and financing of their powers and



authority. Likewise, they shall draw up and approve their respective budgets on an annual basis, which shall contain all the incomes and expenses of their public activity.

5. The coordination and harmonisation of the General Treasury of the Basque Country with the Treasury of the Autonomous Provincial Institutions shall be carried out in accordance with the regulations imposed by the Basque Parliament.

Article 36.- Arbitration Committee

Any conflicts of powers that might arise between the Common Institutions of the Community of the Basque Country and those of each of its Historical Territories shall be submitted to an Arbitration Committee, made up of an equal number of representatives designated freely by the Basque Government and by the Provincial Council of the interested Territory and presided over by the President of the Higher Courts of Justice of the Basque Country, in accordance with the procedures set out in a Law of the Basque Parliament.

Article 37.-Basque Municipalities

1. Through a law of the Basque Parliament, the legal regime and authority of the Basque municipalities shall be established and their autonomy and financial capacity shall be regulated and protected.

2. The aforementioned Municipal Law shall attend to the basic principles established in the European Charter of Local Autonomy and shall guarantee municipal autonomy to include compulsory powers of self organisation, financing and management of their respective powers, as well as participation within the Basque framework of institutional relations and in the preparation and coordination of public policies. Likewise, the aforementioned Law shall regulate the system set out to resolve conflicts of authority between municipal institutions and other Basque institutions.

3. Basque municipalities shall have the powers attributed to them in the laws of the Basque Parliament, which shall take into consideration, in all cases, the principle of subsidiarity.

HEADING IV.- EXERCISE OF AUTHORITY IN THE COMMUNITY OF THE BASQUE COUNTRY

Chapter One Exercise of Basque Self-government

Article 38.- Guidelines of the social and economic framework

Together with social and economic agents, the Basque authorities shall promote a policy of social welfare based on the principles of solidarity, cohesion and social, cultural, economic and material progress.

Accordingly, Basque self-government shall be developed within this social and economic framework of ethical progress based on the following values:

- Well-being and quality-of-life of persons.
- Social justice and solidarity with the most underprivileged persons.





- Guarantee of access of all persons to an adequate and quality education, health and social protection system.
- Effective equality of men and women in all areas.
- A social space based on the equitable distribution of wealth.
- Full employment and guaranteed access to decent employment.
- Equilibrium and territorial and social cohesion.
- The promotion by all Basque institutions of tolerance and democratic values.
- Respect for the plurality and democratic participation of civil society.
- A model of sustainable development.
- Free enterprise and the creation of wealth.
- Participation in companies and inter-company co-operation.

Article 39.- Right to good government and good administration

1. Basque authorities shall safeguard the exercise of their functions by forbidding arbitrariness in government, the right to well administrated government and the social function of political-administrative ends in public administration.

Accordingly, all Basque citizens shall be guaranteed the right to good government and good administration, which shall materialise through the development of the following:

- Transparency of the administration, information on rights and procedures, access to common records and sufficient motivation in administrative actions.
- Efficient guarantee of the official nature of both Basque and Spanish.
- The functionality, efficiency and simplicity of administrative procedures and the processing of official matters without delay.
- Application of the supposition that both the administration and taxpayers always act in good faith, except when proven to the contrary by the administration.
- Correspondence in terms of efficiency between the cost of public services, their social justification and the results obtained.
- The duty of governments to comply with quality models in all their activities, establishing estimates of external assessment of the services they render, beyond administrative controls.
- Full and efficient responsibility for any administrative operation that proves to be deficient in accordance with the law.

2. The Basque Parliament shall establish through legislation a charter of the public services that are to be offered by Basque public administrations in accordance with their respective regime. Each charter shall incorporate the services established in the European Charter of Social Rates and a system of penalties may be determined in the case of any non-compliance of obligations involving a lack of personal responsibility or solidarity with the community.

Article 40.- Participation of civil society

1. The Basque authorities shall establish adequate mechanisms in order to facilitate and stimulate the participation of citizens in public affairs, including socio-economic, social, cultural and educational areas, through any instruments that a Law of the Basque Parliament or the sector laws of the Parliament may determine.

2. The Basque Parliament shall regulate the right of individual or collective petitions.





Chapter Two General Exercise of Authority

Article 41.- Principles of Political Relations with the State

The main basic features of the administrative relations between the Community of the Basque Country and the Spanish State with regard to the exercise of their respective powers or authority, are as follows:

- a) The exchange of information, coordination and co-operation in accordance with institutional loyalty and within the framework of the mechanisms of collaboration and reciprocal guarantees established in this Statute.
- b) The respect for and non-interference in the exercise of their respective powers and areas of authority in accordance with the designation and division of powers outlined in this Statute.
- c) Subsidiarity, in accordance with the criteria of the most suitable Administration, with respect to the exercise of all authority.
- d) The harmonisation of activities when deficiencies should arise between respective institutions, without detriment to the application of systems of guarantees and procedures established in this Statute.

Article 42.-Public policies in the sharing-out of powers

1. For the designation and sharing of Authority in the Community of the Basque Country, preferential attention shall be given to the criteria of conferring public policies, and shall be shared in a subsidiary manner for the purpose of their incorporation in a specific public policy.
2. For the purposes of this Statute, a public policy is the set of powers and administrative activities according to which Institutions exercise the legislative and the executive powers required for their full formation and development, in order to provide Basque citizens with a complete service.

Article 43.- Legislative powers vested in Basque Institutions

1. The Community of the Basque Country shall have the right to exercise legislative powers within its territory, in all public policies and areas of authority not expressly conferred upon the State in this Statute.
2. In the public policies and areas of authority vested in the Community of the Basque Country on an exclusive basis, it shall have full powers to formulate and develop regulations and legislation. Laws emanating from Basque Institutions in these areas shall be the only ones applicable in the Community of the Basque Country, without detriment, when appropriate, to the direct application of European Law. Basque Institutions shall be responsible therefore for the transposition of any European regulations that might be required to their own legal code.
3. In virtue of this Statute, it shall be understood that the application in the Community of the Basque Country of areas of authority reserved exclusively for the Organic Laws of the State, do not affect the regulation by Basque Laws of Institutions and public policies and areas of authority vested in the Community of the Basque Country on an exclusive basis.



Article 44.- Legislative powers vested in Basque Institutions

1. In virtue of this Statute, and on a general basis, within its territory, the Community of the Basque Country shall have the right to exercise the powers of all public policies, except those public policies conferred upon the State on an exclusive basis within the territory of the Community of the Basque Country, in accordance with the provisions of this Statute.

2. The executive powers conferred upon Basque Institutions shall be extended to all executive functions, both of the corresponding Laws of the State and Basque Laws, and shall include the power to dictate the development, enactment and organisation of laws, as well as the complete management and administration of services, including the right to inspect and revise. For this purpose, the regulations and instructions drawn up by Basque Institutions and their corresponding authorities shall be applicable only within the territory of the Community the Basque Country.

3. The powers and authority of the Community of the Basque Country, provided for in this Statute, shall be understood to refer to the territory for which it is responsible. Should the regulation or exercise of their rights by Basque Institutions affect other territories outside the Community, the corresponding agreements of co-operation and collaboration with the authorities of the State or autonomous community in question shall be provided.

4. The State shall guarantee the right of the Community of the Basque Country to designate representatives who shall take part at the highest level in independent administrative authorities, financial institutions and Spanish public companies, the activities of which have a direct or indirect affect on the powers or interests of the Basque Country.

Chapter Three Exclusive Public Policies of the State

Article 45.-Political Powers conferred on the State within the Community the Basque Country

1. With regard to its relations with the Community of the Basque Country, the State has exclusive legislative and executive powers under the terms established below for the preparation, execution and control of public policies in the following areas:

- a) Spanish nationality, immigration and the right to asylum, notwithstanding the shared nature of emigration and immigration policies, in accordance with their effect on the social policies of the Community of the Basque Country.
- b) Defence and the Armed Forces.
- c) The production, sale, possession and use of weapons and explosives.
- d) The monetary system.
- e) Customs and import duties.
- f) Merchant Navy, registration of ships and aircraft, control of airspace.
- g) International relations, notwithstanding actions with external repercussions for which the Community of the Basque Country has authority, as set out in this Statute.

2. Likewise, in its relations with the Community of the Basque Country, the State has the right to enact common legislation to guarantee the defence of the essential contents of fundamental rights, without detriment to the capacity of Basque Institutions to develop and adapt these to their substantive law, as well as the application and exercise of any executive powers that might correspond to them.

Accordingly, the State shall have responsibility for:



- a) Penal, penitentiary and procedural law, notwithstanding the particular nature of Basque substantive law.
- b) Mercantile law, notwithstanding the development of the bases of contractual obligations of a mercantile nature, as well as the bases of contracts and administrative concessions.
- c) Civil legislation, notwithstanding the Basque Country's own private civil law.
- d) Intellectual and industrial property legislation.
- e) Weights and measures, verification of metals and establishing official time.

Chapter Four Exclusive Public Policies of the Community of the Basque Country

Article 46.- Institutionalisation and self-government policies

The Community of the Basque Country has exclusive rights to draw up public policies of institutionalisation and self-government. For the drafting, execution and control of these public policies, Basque Institutions shall have all legislative and executive powers for the following issues and areas:

- a) Exclusive regime of self-organisation and administration, symbols and Institutions of self-government.
- b) Territorial boundaries within the Community of the Basque Country.
- c) Electoral system.
- d) Legal regulations governing the rights and obligations of civil servants.
- e) Administrative procedure deriving from its own law and organisation; obligatory expropriation, system of responsibility, patrimony and the legal regime of all public Administrations of the Community of the Basque Country.
- f) Associations and foundations.
- g) The Basque Country's own private civil law as an autonomous Community, including:
 - Determination of the persons to whom this law is applicable within its Territory.
 - Organisation and management of all public civil records and instruments within the territory of the Community of the Basque Country under the administrative or judicial dependence of Basque Institutions.
 - The organisation of legal-civil relations relating to family law, including the effects of the regulation of alternative stable unions of persons to matrimony.
 - The organisation of legal-civil relations of an economic and patrimonial nature, with respect to the bases of the contractual obligations established by the State.

Article 47.- Educational and cultural policies.

1. The Community of the Basque Country is responsible for the constitutional development of the fundamental rights and obligations with regard to the legal regime concerning the use of languages, rights to expression and communication, the right to education and the freedom for educators in the pursuit of their activity.

2. For the preparation, execution and control of public educational and cultural policies that correspond exclusively to the Community of the Basque Country, the Basque Institutions shall have full legislative and executive power in the following subjects and areas:

- a) Teaching, both non-university and university, at all levels and of all types and specialities, including continuous training.



- b) Vocational training, which shall include all subsystems of qualification and vocational, occupational and continuous training.
- c) The obtaining, issuing and certification of academic and professional qualifications.
- d) Defence and protection of the cultural, artistic and architectural heritage.
- e) Traditional crafts.
- f) Museums, libraries and archives.
- g) Filmmaking, theatre, sports and spectacles.
- h) The press, radio, television and general oral social communications media.

3. With regard to aspects concerning the identity and cultural presentation of the Community the Basque Country, the State shall guarantee respect for the representation of Basque identity on the international scene in all cultural manifestations, in the world of sport and industry, literary, scientific and technical production and creation, including the representation of the Community of the Basque Country on international bodies and the promotion of Basque culture abroad, for which it may sign agreements with international institutions and organisations or other countries.

4. The Basque Country has the right to organise his own national teams, which will be able to take part on an official basis in international sporting competitions.

Article 48.- Social and health policies

The Community of the Basque Country has exclusive rights to draw up social and public health policies. For the drafting, execution and control of these public policies, Basque Institutions shall have all legislative and executive powers for the following issues and areas:

- a) Internal and external health.
- b) Pharmaceutical planning, health and pharmaceutical products.
- c) Social welfare.
- d) Institutions and establishments for the protection and guardianship of minors.
- e) Penitentiary and social re-insertion systems and institutions.
- f) Community development.
- g) Policies relating to equality between men and women.
- h) Policies relating to small children, young people and the elderly.
- i) Immigration policies.
- j) Social and employment integration policies.
- k) Equal opportunities policies.
- l) Family protection policies.

Article 49.- Economic and financial sector policies

The Community of the Basque Country has exclusive rights to draw up public policies for the economic and financial sectors. For the drafting, execution and control of these public policies, Basque Institutions shall have all legislative and executive powers for the following issues and areas:

- a) Defence of the rights of consumers and users.
- b) Production, distribution and energy transport installations.
- c) Mining and energy systems; geothermal resources.
- d) Agriculture and livestock.
- e) Mountains, forestry production and services, movement of livestock and pastureland.



- f) Deep-sea fishing and the organisation of the fishing sector, seafood and agricultural production, hunting and river and lake fishing.
- g) Industry.
- h) Telecommunications.
- i) New technologies relating to the information and knowledge society.
- j) Scientific and technical research.
- k) Home and foreign trade; trade fairs and markets; *Appellations d'origine* and advertising.
- l) Public Corporations, in particular, Brotherhoods of Fishermen and Chambers of Commerce, Industry and Navigation.
- m) Professional colleges and exercise of professions; system of Notaries Public, and Property Registrars, Stockbrokers and Agents.
- n) Tourism, leisure and recreation.
- o) Casinos, gaming and gambling.
- p) Organisation of money lending entities, banking and insurance.
- q) Cooperatives and friendly societies not forming a part of the Social Security system.
- r) Credit institutions and savings banks.
- s) Commodity exchanges and other goods and securities contracting centres.
- t) Statistics.

Article 50.- Policies regarding natural resources, territorial planning, housing and the environment

1. The Community of the Basque Country shall have exclusive powers with regard to public policies on natural resources, territorial planning, housing and the environment. For the drafting, execution and control of these public policies, Basque Institutions shall have all legislative and executive powers for the following issues and areas:

- a) The environment and equality.
- b) Industrial and contaminating waste.
- c) Meteorological service.
- d) Hydraulic resources, canals and irrigation, mineral water, thermal and subterranean springs.
- e) Territorial and coastal planning.
- f) Urban development and Housing.

2. In virtue of this Statute, natural resources located within the territory of the Community of the Basque Country and, in particular, the maritime-terrestrial area of its coastline and beaches, the adjoining inland waters up to a distance of twelve nautical miles, and the natural resources existing in these shall constitute properties in the public domain of the Community of the Basque Country. The administration, defence and conservation of these natural resources shall be regulated through a law of the Basque Parliament, which shall respect international regulations and treaties and the main and essential objectives of state legislation.

Article 51.- Infrastructure and transport policies

1. The Community of the Basque Country has exclusive rights to draw up public infrastructures and transport policies. For the drafting, execution and control of these public policies, Basque Institutions shall have all legislative and executive powers for the following issues and areas:

- a) Railways.
- b) Land, maritime, river and cable transport systems.



- c) Ports, heliports and airports.
- d) Meteorological service.
- e) Transport contracting and loading centres and terminals.
- f) Public works.
- g) Traffic and circulation of motor vehicles.

2. In virtue of this Statute, the Community of the Basque Country shall have full authority for all public works and infrastructures found totally or partially within its territory, whether these are considered to be of general interest or not and shall include all transport and communications systems support infrastructures located in its territory.

3. Basque Institutions shall coordinate their activities and collaborate with the State and Autonomous Communities in order to safeguard their respective interests, applying specific legislation on infrastructures and other works of general interest, without detriment to the provisions of this Statute.

Article 52.- Public Security Policies

1. The Community of the Basque Country shall have the right to establish public safety policies for the protection of persons and properties. For the preparation, execution and control of these public policies, the Basque institutions shall have all legislative and executive powers in the following subjects and areas:

- a) Administrative and security functions.
- b) The regime of the Basque police or Ertzaintza.
- c) Civil protection.
- d) Sea rescue.
- e) Traffic and circulation of motorised vehicles.

2. Within the Community of the Basque Country, the Security Forces and Corps of the State shall have exclusive powers only for policing services associated with the control of public policies vested in the State on an exclusive basis in this Statute.

3. The Lehendakari shall be commander-in-chief of the Ertzaintza.

4. A Security Committee formed in equal numbers by representatives of the State and the Community of the Basque Country, shall guarantee coordination between the Ertzaintza and the Security Forces and Corps of the State, with regard to those crimes that affect both the Community of the Basque Country and the State.

Article 53.- Socio-industrial policies and employment

1. The Community of the Basque Country shall have all the powers and public functions necessary to establish and regulate its own socio-industrial system. It shall exercise its powers in socio-industrial matters in accordance with the essential rights and obligations of workers and employers defined in the State and in Europe.

2. The Community of the Basque Country has the legislative power and the power of enacting laws in the fields of employment, training, and the prevention of hazards in the workplace. For this purpose, the Community of the Basque Country may organise, manage and sponsor, within its territory, all services relating to the aforementioned matters, including the right to inspection, without detriment to the collaboration and cooperation with the State.



3. Basque Institutions shall have powers to determine, within their territory, the representativeness of trade union and employers organisations in accordance with strictly democratic criteria, as well as the system and efficiency of collective negotiation, without detriment to a respect for the agreed wishes of trade union and employers organisations in the Community of the Basque Country.

4. Basque Institutions shall establish the appropriate bilateral instruments with the State and the European Union in order to collaborate and cooperate in the exercise of their powers in work-related matters. Relations of a financial nature deriving from the exercise of these powers, including the participation in State or European funds will be subject to the Economic Agreement system provided for in this Statute, in accordance with the solidarity principle.

5. Basque authorities shall adapt the exercise of their powers in work-related matters to the criteria of democratic participation of trade union and employers' organisations, endeavouring to ensure that working conditions come in line with the level of development and social progress, and promoting the qualification and continuous training of workers throughout their working lives.

6. The Basque Council of Industrial Relations shall be the consultative entity of Basque Institutions in socio-industrial matters and shall represent the conciliation body between trade union organisations and employers' confederations within the Community of the Basque Country in order to promote collective negotiation and encourage mediation and arbitration in industrial disputes.

The Basque Council of Industrial Relations shall have its own legal and independent personality for the development of its authority, which shall be regulated through a law of the Basque Parliament.

Article 54.- Social Protection Policies

1. Basque Authorities shall maintain a public social security system for all citizens, guaranteeing sufficient social care and services in the case of need.

2. Basque institutions shall have powers to develop the legislation and the State in matters relating to social welfare, as well as the management of the public social security system within their territory, which shall be exercised with their own budget and shall include the collection of social security quotas accrued in the Community of the Basque Country and the management of the patrimony located within its territory affected by the system.

3. Basque institutions shall guarantee the principle of unity in the ownership of resources of the social security system of the State as a whole. For this purpose, their financial participation to this shall be subject to the Economic Agreement provided for in this Statute, by which the economic flows and inspection mechanisms guaranteeing the principles of solidarity and non-discrimination with the citizens of the State as a whole shall be regulated.

4. The Community of the Basque Country may organise and administer within its territory will services relating to the matters expressed in this article and shall supervise the Institutions, Entities and Foundations in matters relating to social security.





HEADING V.- ECONOMY, TREASURY AND PATRIMONY IN THE COMMUNITY OF THE BASQUE COUNTRY

Chapter One Exercise of Authority in economic matters

Article 55.- Principles of Economic Relations with the State

1. Basque Institutions shall exercise the powers and authority recognised under this Heading in accordance with the system of relations and power-sharing established in this Statute and in any regulations pronounced by the Basque Parliament for this purpose.

2. For its part, the State, within the boundaries of the Community of the Basque Country, shall submit the exercise of its powers and authority conferred upon it in the Constitution to the provisions set out in this Heading.

3. Relations of an economic and financial nature between the Community of the Basque Country and the State deriving from the exercise of their respective powers and authority, shall be developed bilaterally and shall be formalised by means of the traditional special rights set out in the Economic Agreement through the corresponding legal or compulsory provisions agreed to.

4. Any conflicts or discrepancies that might arise shall be referred to and, if appropriate, resolved by the Mixed Committee made up of an equal number of representatives from the Institutions of the Community of the Basque Country and the State. This Mixed Committee shall establish the appropriate bilateral instruments for the coordination, harmonisation and collaboration in the exercise of all powers and authority recognised under this Heading and their adaptation to the Public Policies of the State and the European Union.

5. In particular, the appropriate mechanisms shall be provided to allow the participation of Basque Institutions in the European Union in order to contribute towards a definition of its economic policy, as well as in international treaties and agreements that have an effect on the exercise of the powers and authority recognised under this Heading.

6. Under the terms agreed in virtue of the procedure provided for in the previous paragraphs, Basque authorities shall adapt the powers and authority recognised under this Heading to the principles of solidarity, non discrimination in the economic policies of its territories and to the respect for and guarantee of freedom of circulation and establishment of persons and of the free circulation of goods, capital and services, without discriminatory effects or diminishing the possibilities of free business competition.

Chapter Two Economic and financial organisation of the Basque Country

Article 56.- Organisation and planning of economic activity

1. Basque Institutions shall have exclusive powers to organise and plan economic activities and the promotion and fostering of economic development in the Community of the Basque Country, in accordance with the right to private property and a respect for the freedom of enterprise within the framework of the market economy.



2. Concerning the exercise of the public initiative of Basque Institutions in economic activities, only by means of the laws of the Basque Parliament shall they be able to reserve essential resources or services for the public sector, especially in the case of monopolies, and, likewise, agree to the intervention of companies when this should be in the general interest.

3. In the same sense, while respecting the essential principles of State legislation, the Basque Parliament shall regulate the definition of the social function of private property, as well as any limitation to the exercise of inherent rights to same due to a justified cause of public utility or social interest which, in all cases, shall involve the corresponding compensation.

4. The State shall provide the appropriate mechanisms to allow the participation of Basque Institutions in the planning of economic activity between different territories.

5. Basque institutions shall also take part in the management of the State public economic sector within their territory and shall designate, by common agreement with the State, its own representatives in economic organisations, control bodies, financial institutions and public companies of the State and, if appropriate, of the European Union, whose authority or influence extends to the territory of the Community of the Basque Country.

6. Basque Institutions shall have the legislative and executive power concerning the defence of competition, and shall set up for this purpose an organisation entrusted with its safeguard, which shall coordinate its activities with the Defence of Competition Court of the State and with European and international organisations set up for this purpose.

7. The Basque Economic and Social Council shall represent the consultative body of Basque Institutions in order to make the participation of different economic and social interests in the economic policy of the Community of the Basque Country effective. The Council shall have its own legal personality and full capacity and independence for the exercise of its functions. Its competition and function shall be regulated through a law of the Basque Parliament.

Article 57.-Financial system

1. Basque Institutions shall have exclusive authority for regulating and supervising the financial system of the Community of the Basque Country in accordance with the basic framework of the European Union and of the common mercantile legislation attributed to the State in this Statute with regard to the borrowing, banking and insurance.

2. The Community of the Basque Country shall participate and designate, by common agreement with the State, its own representatives in the institutions and organisations controlling the State financial system and, if appropriate, those other European Union, whose authority or influence extends to its territory.

Chapter Three Treasury and Patrimony of the Basque Country

Article 58.- General Treasury of the Basque Country

1. The General Treasury of the Basque Country shall be subject to a set of rights and obligations of an economic nature, pertaining to the Community of the Basque Country.

2. By means of its laws, the Basque Parliament shall regulate all matters concerning the General Treasury of the Basque Country.



3. The income of the General Treasury of the Basque Country shall consist of the following:

- a) Contributions made by a Provincial Institutions as contributions to sustaining all the general costs of the Community of the Basque Country, in accordance with the provisions of a Law of the Basque Parliament.
- b) The yield from taxes established by the Basque Parliament in accordance with the provisions contained in this Statute.
- c) The product of taxes, patrimonial services and their economic rights for the use of properties in the public domain.
- d) Any surcharges that the Basque Parliament might establish on taxes applicable within the Community of the Basque Country.
- e) Transfers from the European Union.
- f) Transfers and other allocations charged against the General Budgets of the State.
- g) Yield from its patrimony and private income.
- h) The product of credit operations and the issuing of government bonds made in virtue of the powers recognised in this Statute.
- i) Any other income that might be established in virtue of the provisions of this Statute and of the Laws of the Basque Parliament.

4. Within the area of its authority and in relation to its General Treasury, the Community of the Basque Country shall have the same prerogatives conferred upon the State.

Article 59.- General Budgets of the Basque Country

1. The General budgets of the Community of the Basque Country shall be drawn up on an annual basis, and shall contain all the income and expenses of general public activities, and shall be prepared by the Basque Government and passed by the Basque Parliament, in accordance with the regulations established by the latter.

2. A Law of the Basque Parliament shall regulate the preparation, inspection, amendment, approval, modification, execution, settlement and control of the General Budgets, as well as any deferment.

3. The coordination and harmonisation of the budgetary policy of the Community of the Basque Country with that of the State for the purpose of guaranteeing economic and budgetary stability, shall be carried out in accordance with the principles and instruments of the economic relations established in this Statute.

Article 60.- Financial autonomy

1. The Community of the Basque Country shall have fiscal and financial autonomy for the development and execution of the powers recognised in this Statute.

2. The financial activity of the Community of the Basque Country shall be coordinated and harmonised with that of the State in accordance with the provisions of this Statute. Accordingly, the forms of financial collaboration between the Community of the Basque Country and the State shall be established and, especially, in order to determine the contribution of the former to the general costs of the State, its participation in the income of the State and the collaboration in the public investments policy.

3. The Community of the Basque Country shall contribute to the financing of general costs corresponding to the policies exercised by the State within its territory, in accordance with



the provisions of this Statute, by means of the contribution of a global quota within the framework of the Economic Agreement. In order to establish this overall quota, a Mixed Committee shall be set up, formed on the one hand by a representative of each Provincial Council and by the same number of representatives of the Basque Government, and on the other by the same number of representatives of the Administration of the State.

Article 61.- Taxation Powers

1. Basque institutions have the authority to maintain, establish and regulate, within their territory, their own tax system and regime. Under no circumstances shall they have the right to confiscate and shall be inspired by principles of equality and progress.

2. The levying, management, settlement, inspection, revision and collection of all the taxes that form part of the tax system of the Community of the Basque Country shall be the responsibility of the competent Basque institutions.

3. In their exercise of powers in tax issues, referred to in this article, Basque institutions shall respect the provisions set out in the international treaties and agreements signed and ratified by the Spanish State or in those to which the latter adheres, as well as the fiscal harmonisation regulations of the European Union.

Article 62.- Credit and Public Debt

1. Basque Institutions may issue government bonds or take out loans to finance investment costs under the terms established through a law of the Basque Parliament.

2. The Public Debt of the Community of the Basque Country and securities of an equivalent nature issued by Basque Institutions, shall be considered to be public funds for all purposes and shall enjoy the same benefits and conditions as the Public Debt of the State.

Article 63.- Patrimony

1. The Patrimony of the Community in the Basque Country shall include, without exception, all the rights and properties that affect the powers and services assumed by Basque Institutions in virtue of this Statute.

2. The Basque Parliament shall decide which Basque Institutions shall have the property or use of the aforementioned properties and rights.

3. The Basque Parliament shall regulate the legal system of property in the public domain and common properties, respecting the essential principles of inalienability, imprescriptibility and non-attachability, as well as changing their use, the legal system of goods in the private domain, administrative concessions, respecting the bases of contractual obligations and the administration, defence and conservation of the Patrimony of the Community the Basque Country.

4. Basque Institutions shall guarantee the conservation and promote the enrichment of the historical, cultural and artistic heritage of the Basque Country and of the properties of which it is formed, irrespective of their legal regime and ownership.

Article 64.- Basque Audit Office

1. The Basque Audit Office is the highest supervisory body of the economic-financial activities of the public sector in the Community of the Basque Country.



2. As a body that reports directly to the Basque Parliament, it exercises its functions, delegated by the Basque Parliament, with jurisdiction throughout the territory of the Community and the Basque Country.

3. The members of the Basque Audit Office shall have the same independence as judges and cannot be removed from office.

4. A Law of the Basque Parliament shall regulate its composition, organisation and functions, as well as the guarantees and procedures governing its supervisory function and for passing judgement on the responsibility in the use of public funds.

HEADING VI.- SYSTEM OF POLITICAL RELATIONS AT A EUROPEAN AND INTERNATIONAL LEVEL

Chapter One Relations with Europe

Article 65.-European Union

1. The State shall include the undertakings deriving from this Statute in the Treaties of the European Union in the corresponding terms, in order to ensure its recognition and respect within Europe.

2. In accordance with European Community regulations, the Community of the Basque Country shall have direct representation in the organisations of the European Union. For this purpose, the Spanish Government shall authorise the active participation of the Basque Government in the decision-making procedures of Community Institutions in those matters that affect its authority.

Likewise, representatives of Basque Institutions shall form part of the delegations of the State in the Council of Ministers of the European Union in all matters that affect the contents of the public policies for which they have exclusive authority.

3. The Basque Government and the Spanish Government shall provide the coordination systems required to guarantee the effective participation of the Community of the Basque Country in the preparation, programming, distribution and execution of community funds.

4. Basque institutions shall be responsible for transposing Community Directives within the bounds of their authority.

5. The State shall guarantee the access of Basque Institutions to the European Court of Justice whenever direct access is not provided for in European regulations.

6. The Community of the Basque Country shall constitute a single electoral district in elections to the European Parliament.

Article 66.-Cross-border and Inter-regional European Co-operation

1. According to the subsidiarity principle, Basque Institutions shall promote cross-border and inter-regional cooperation within the European Union, as a basic instrument on which to build a Europe based on democratic, social and federative principles, in which the



recognition of its different peoples and regional groups represents a factor of cultural enrichment and democratic progress.

2. The Community of the Basque Country shall promote the creation of a Euroregion within the European Union to include all the historic territories that make up the Basque People and, if appropriate, other neighbouring regions with which historical, social, economic and cultural links of singular importance are maintained.

Chapter Two International Relations

Article 67.- Representation abroad

1. Basque Public Institutions shall develop outside the Territory of the Community of the Basque Country any activities required to defend and promote the interests of Basque citizens, and they may sign, for this purpose, agreements, accords and protocols with international institutions and organisations, within the bounds of their authority.

2. For this purpose, in order to conduct its relations with foreign institutions, the Basque Government shall provide the human and material resources required, including, if appropriate, the creation of delegations and offices abroad, regulated through a law of the Basque Parliament.

3. The Community of the Basque Country shall participate directly in all those international organisations whose regulations governing access and participation allow this, and especially, in those organisations working in the field of language, culture, peace, the defensive of human rights and cooperation, sustainable development and the environment.

4. Basque Centres abroad shall enjoy official recognition and shall represent an essential instrument for maintaining the links between the Community of the Basque Country and members of Basque communities abroad, as well as for the development and promotion of commercial, cultural, political and institutional relations with the countries in which these are located.

Article 68.- International Treaties and Agreements

1. Any formalisation by the Spanish Government of international treaties and agreements that represent an alteration or restriction of the powers set out in this Political Statute shall require prior authorisation by Basque Institutions.

2. The Basque Government shall participate, insofar as it is implicated, in the negotiation of international treaties and agreements developed by the Spanish Government, as well as in customs legislation, insofar as these affect matters of specific interest for the Community of the Basque Country.

3. The Community of the Basque Country shall enforce international treaties and agreements to the extent that these affect their powers and authority.





Chapter Three Cooperation for Development

Article 69.-Solidarity and Co-operation for Development

The Community of the Basque Country may develop its own policy of solidarity and cooperation with developing countries, establishing for this purpose the pertinent programmes and agreements with target countries and areas, as well as with any non-governmental organisations and public and private institutions that may be required in order to guarantee the effectiveness and efficiency of cooperation policies.

ADDITIONAL PROVISION.

Reservation of rights

The acceptance of this Statute does not constitute any renunciation by the Basque People of their historical rights nor any renunciation of their right to free determination in accordance with their own democratic wishes.

TRANSITORY PROVISION

1. Within a maximum period of six months counted as of the date this Statute comes into effect, the Community of the Basque Country shall assume and commence the full exercise of all the powers, functions and services, without exception, that correspond to it in accordance with its system of self-government, without detriment to the continuous exercise and full subrogation of all the powers that the Autonomous Community of the Basque Country has already assumed.

2. Within the aforementioned period of six months, a Mixed Transfer Committee, made up of an equal number of representatives of the Basque Government and the Government of the State, shall establish, once only and in a definitive manner, the appropriate agreements in order to guarantee the continuity of public services and to transfer the human and material means pertaining to the State, which shall remain, respectively, integrated into the Community of the Basque Country or under its full control in accordance with the system of self-government. For this purpose, it shall be considered that the minutes of the Mixed Committee and certificates issued with regard to inventories and official documents of the State shall be sufficient for the inscription of the properties in the corresponding Official Registries.

The aforementioned Mixed Committee shall approve financial agreements and shall regularise any movement of funds between the Community of the Basque Country and the State.

Should there be any lack of agreement within the Mixed Committee, this shall not prevent the Community of the Basque Country from exercising the powers and authority it has assumed, which it may exercise with its own financial means and resources, without detriment to its right to claim, as a later date, from the State, before the Higher Court of Justice of the Basque Country, any damages that may have derived from a delay in processing the required transfer of authority.

3. When this Statute comes into effect, the laws currently applicable in the Community of the Basque Country shall remain in force until the laws set out in this are enacted, in accordance, when appropriate, with its system of self-government.



FINAL PROVISIONS

First

The model and system of political relations between the Community of the Basque Country and the Spanish State, regulated in this Political Statute, shall succeed and replace, when it comes into force, the one passed by Organic Law 3/December 18 1979 in the Statute of Autonomy for the Basque Country and any laws and provisions that contradict this Statute shall be abolished.

Second

This political Statute shall be published in the Official Gazette of the Basque Country and in the Official count Gazette of the State. It will come into force the day following its publication in the Official Gazette of the Basque Country.

