



# Electoral Act

LAW N°. 8765

REPUBLIC OF COSTA RICA

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# Electoral Act

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## **PRESENTATION**

In 2009, the Congress of the Republic of Costa Rica approved, with the support of the Supreme Electoral Tribunal (TSE) and after a hard negotiation among the different political groups, a new Electoral Code that replaced the previous Code of 1953. The 2009 Code defined new parameters so that the electoral processes of Costa Rican democracy continue to set the example in the region in light of the challenges that come with the new century.

With the entry into force of the new Electoral Code, the Supreme Electoral Tribunal undertook the task of disseminating and enforcing the new rules of the political-electoral game. Through its Institute of Formation and Studies on Democracy (IFED), created by the Code as the academic and pedagogical arm of TSE, different actions have been taken to disseminate the implications of this electoral norm among the citizenry, political parties, and the different electoral agents. The interest that the Costa Rican system generates among the democracies of a global world established the relevance and the need to translate the Electoral Code into English in order to make it accessible to non-government organizations, researchers and students past the Spanish-speaking scope.

The Institutional Cooperation Agreement between the TSE and the National University allowed Magister Gabriela Castro Jiménez to begin the translation process of the Code, which became her final graduation project to obtain the Master's Degree in English-Spanish translation. The final product required hours of meticulous hard work to harmonize the electoral norm with the English language. In her work, the translator insists on respecting the sense of the norms and chooses to use technical and conversational vocabulary that can facilitate accurate comprehension in the target language.

The idea to translate the Electoral Code into English responds to the reality of our world today in terms of communication given the fact that we live in an interconnected world. A world in which, more than at any given time in history, the traditional boundaries of culture or language seem to fade in light of the changes brought about by Globalization and in which English has been accepted by many nations as a common language to facilitate social, cultural, political, economic, academic relations, among others.

Provided that English is a fundamental language in the world of diplomatic, academic, cultural and commercial scenarios, the Costa Rican educational system incorporates the teaching of English in the Elementary and Secondary school system. Translating the Electoral Code into English generates valuable pedagogic input, fosters a better understanding of the Costa Rican model in contexts of global discussion and promotes scientific research that was previously hindered by a language barrier.

Thus, the Supreme Electoral Tribunal is pleased to present this translation of the Electoral Code certified by the American Translators Association, available at the website: <http://www.tse.go.cr/pdf/normativa/electoralact.pdf>.

## PRESENTACIÓN

En 2009, después de una ardua negociación por parte de diferentes grupos políticos y con el impulso del Tribunal Supremo de Elecciones (TSE), la Asamblea Legislativa de la República de Costa Rica aprobó un nuevo Código Electoral que sustituyó al precedente de 1953. El Código de 2009 definió nuevos parámetros para que los procesos electorales de la democracia costarricense sigan siendo referente en la región y un ejemplo ante los retos que trae el nuevo siglo.

El Tribunal Supremo de Elecciones, a partir de la entrada en vigencia del Código, asumió la tarea de divulgar y llevar a la práctica las nuevas reglas del juego político-electoral. A través de su Instituto de Formación y Estudios en Democracia (IFED), creado por el Código como brazo académico y pedagógico del TSE, se han llevado a cabo diferentes acciones para difundir las implicaciones de la normativa electoral entre la ciudadanía, los partidos políticos y los diferentes agentes electorales. El interés que genera el sistema costarricense entre las democracias del mundo globalizado, puso en evidencia la necesidad de traducir el Código Electoral al idioma inglés, a fin de hacerlo accesible a organismos electorales, organizaciones no gubernamentales, consultores, investigadores y estudiantes, más allá del ámbito hispanohablante.

El Convenio Marco de Cooperación Interinstitucional entre el TSE y la Universidad Nacional, facilitó que la Magister Gabriela Castro Jiménez iniciara el proceso de traducción del Código como parte de su trabajo final de graduación para obtener el título de Maestría en Traducción en inglés-español. El producto final requirió horas de meticulosa labor para armonizar la normativa electoral con la lengua inglesa; en su trabajo, la traductora se empeña en respetar el sentido de las normas y opta por los vocablos coloquiales y técnicos que faciliten la certera comprensión en aquella lengua extranjera.

La idea de traducir el Código Electoral al inglés responde a la realidad de los tiempos actuales respecto de las comunicaciones, pues vivimos en un mundo que se comunica más rápidamente que en cualquier otro momento de la historia de la humanidad, en donde los límites tradicionales de una cultura o idioma parecen borrarse ante los avatares de la Globalización y en el que el inglés ha sido aceptado en muchos países del planeta como una lengua común para permitir las relaciones sociales, culturales, políticas, económicas, académicas, entre otras cosas.

Dado que el inglés es un idioma fundamental en el mundo de las relaciones diplomáticas, académicas, culturales y comerciales, el sistema educativo costarricense incorpora su enseñanza tanto en primaria como en secundaria. Traducir el Código Electoral a ese idioma genera un insumo de valor pedagógico, facilita que en el ámbito de discusión global sobre diseño de las instituciones políticas se comprenda mejor el modelo costarricense y promueve investigaciones científicas antes obstaculizadas por la barrera del idioma.

Por ende, el Tribunal Supremo de Elecciones se complace en presentar esta traducción del Código Electoral, certificada por la American Translators Association, disponible en su página web: <http://www.tse.go.cr/pdf/normativa/electoralact.pdf>.

# **ELECTORAL ACT**

## **Law No. 8765**

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No. 171 of September 02, 2009

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

HEREBY ORDERS:

## **ELECTORAL ACT**

### **TITLE I**

#### **GENERAL PROVISIONS**

##### **SOLE CHAPTER**

#### **ARTICLE 1 - Principles that govern electoral matters**

Electoral matters shall observe the general principles of law in the absence of any express provisions.

#### **ARTICLE 2 - Principles of gender quality in political participation**

The political participation of men and women is a human right acknowledged in a democratic, representative, participatory and inclusive society under the principles of equality and non-discrimination.

Participation shall be governed by the principle of parity which implies that all delegations, electoral lists and other entities with an even number of members must be composed of 50% of members from each gender, and in delegations, electoral lists or entities with an odd number of members the difference between the total number of men and women shall not exceed one.



All electoral lists shall use the gender alternation mechanism (female-male or male-female), in such a way that two people of the same sex cannot be consecutively on the electoral list.

### **ARTICLE 3 - Sources of the election legislation**

The following hierarchy is followed by the sources of election legislation:

- a) The Political Constitution.
- b) International treaties in force in Costa Rica.
- c) Election legislations.
- d) Regulations, guidelines and communications issued by the Supreme Electoral Tribunal (TSE, for its Spanish acronym).
- e) Bylaws of duly registered political parties.
- f) Other provisions subordinated to the regulations and bylaws of political parties.

Unwritten regulations, such as electoral jurisprudence, the principles of election legislation and custom shall have the rank of the regulation that they interpret, are part of, or define.

Consultative interpretations and opinions from the TSE are binding *erga omnes*, except for the provisions pursuant to Article 97 of the Political Constitution, and except on the Tribunal itself.

Whenever the Tribunal changes its jurisprudence, consultative opinions or interpretations, it shall do so by means of a duly reasoned decision.

## **TITLE II ELECTORAL BODIES**

### **CHAPTER I PRELIMINARY PROVISIONS**

#### **ARTICLE 4 - Electoral organizations**

The following are the electoral organizations:

- a)** The TSE.
- b)** The Electoral Registry.
- c)** The Civil Registry.
- d)** The Electoral Boards.

#### **ARTICLE 5 - Headquarters of the electoral organizations**

The electoral organizations shall have the following headquarters:

- a)** The TSE shall be headquartered at the capital city of the Republic of Costa Rica, without prejudice to holding meetings anywhere in the country by agreement.
- b)** Cantonal boards shall be headquartered at the administrative capital of their jurisdiction.
- c)** The headquarters of polling station committees shall be stipulated by the Directorate General of the Civil Registry when assigning the electors, as provided for in Article 155 of this Act.

#### **ARTICLE 6 - Absence of members**

The permanent absence of the members of the electoral organizations shall be replaced as soon as possible with a new appointment effected in the legally appropriate manner.

**ARTICLE 7 - Impediments for being members**

The following people cannot be members of electoral organizations:

- a) Officials and employees referred to in the second paragraph of Article 146 of this Act, except for officials of the Civil Registry, and TSE officials and justices.
- b) Spouses, siblings, parents, children, and domestic partners, in the same electoral body, at the same time.
- c) Spouses, siblings, and ascendants or descendants, up to third degree of consanguinity or affinity, of the candidates whose results are to be announced by the TSE cannot be members of said Electoral Tribunal. However; if any candidacy leading to the aforementioned incompatibility emerges once the Tribunal has already been constituted, the affected sitting member must recuse from participating in the election process from that moment on without prejudice to the right of this person to their compensation. When the affected member is a permanent justice of the Tribunal, the disqualification shall cease after the declaration of the election result.

**ARTICLE 8 - Restrictions for performing duties**

Individuals who are armed, under the influence of alcohol or drugs that prevent them from performing their obligations, shall not perform their duties in electoral organizations. Immediately after the disappearance of the impediment, they shall take up their duties without prejudice to any sanctions that may apply.

**ARTICLE 9 - Quorum and majority required for proceedings**

For collegiate electoral organizations to act validly, with the exceptions expressly stated in this Act, the attendance of at least half of the members plus one is required.

Decisions shall be taken by absolute majority. In the event of a tie, the chairperson shall have the casting vote, except for the provisions relating to the TSE.

### **ARTICLE 10 - Communication of electoral events**

Communication of the electoral events of electoral organizations shall be governed by the following provisions:

- a) Events of a general nature and others stipulated by law shall be published in the Official Journal or by electronic means and, if deemed appropriate, in any other daily papers of national circulation.
- b) Decisions and rulings shall be informed by means of edicts, law courts, pigeonholes, fax, email or any other way that ensures the safety of the notification, according to the regulations established by the Tribunal in this regard.
- c) Decisions and rulings in electoral matters shall be communicated to the interested party in the location or by the aforementioned means. In this respect, any person interested in its first processing or when informed of this by the electoral body, must accurately indicate the location or means for receiving notifications within the respective judicial district. Otherwise, twenty-four hours after pronouncements shall be deemed sufficient to constitute notification to the interested party. The same shall apply if the selected means make it impossible to deliver the notification due to reasons beyond the control of the dispatch office, or if the specified location remains closed, is imprecise, uncertain or nonexistent.
- d) Decisions that communicate any type of action in electoral matters must be personally notified to the person being served in their residence, place of work or by registered mail addressed to any of these locations without any prior processing. If there is no address available, it may be communicated by means of an edict published in the official gazette, *La Gaceta*. The

previous statement does not imply the halting of other proceedings.

- e) Cantonal boards shall notify their agreements by means of notices pasted on the doors of their work locations.

The provisions of Act No. 8687 and Judicial Notifications of December 4, 2008 shall apply in a supplementary fashion with respect to formalities, requirements and nullities of notifications not included in this Article or in its Regulations.

## **CHAPTER II SUPREME ELECTORAL TRIBUNAL**

### **SECTION I GENERAL PROVISIONS**

#### **ARTICLE 11 - Swearing in**

Justices shall take their constitutional oaths before the Supreme Court of Justice. The Secretary, Assistant Secretary, delegates, section or department heads of the Tribunal, as well as the director, senior officials, the secretary, section heads and heads of regional offices of the Civil Registry and of the Electoral Registry shall take oath before the TSE.

#### **ARTICLE 12 - Powers of the Supreme Electoral Tribunal**

In addition to powers conferred on the TSE by the Constitution, by this Act and by other legislation, the TSE is empowered to:

- a) Organize, administer and supervise election-related activities; for such purpose it may issue regulations, decisions and rulings pursuant to the law.
- b) Count the votes cast and make the official election announcement of results under its responsibility.
- c) Issue exclusive and binding interpretations of constitutional provisions and other provisions of election legislation ex officio or at the request of the superior executive committee of any registered political party and without

prejudice to the powers of the Constitutional Court in the area of conflict of jurisdiction. The final resolution issued in relation to this matter shall be published in the official gazette, *La Gaceta*, and communicated to all political parties.

- d)** Issue consultative opinions upon the request of the superior executive committees of any of the registered political parties or for heads of public institutions who are legitimately interested in electoral matters. Any individual may also request a consultative opinion; however, if deemed necessary for the proper direction of the electoral process and related activities, the Tribunal shall issue it at its discretion. Whenever the Tribunal deems it appropriate, it shall order the publication of the respective ruling.
- e)** For electoral activities, guarantee the exercise of electoral rights stipulated in the Political Constitution and in international treaties currently in force in Costa Rica, in the law, in regulations and in the bylaws of political parties for particular cases by means of the appeal for legal protection of electoral rights. Procedures for the protection of electoral rights shall be executed as provided for in this Act and, and failing this, in accordance with the procedure established by the law of the constitutional jurisdiction.
- f)** Supervise the internal processes of political parties to appoint the members of their organs, caucus delegates and candidates to popular election positions so that they act in accordance with the election legislation and the democratic principle.
- g)** Declare Electoral Boards as constituted, and remove any member from their position for just cause.
- h)** Announce the results of elections, publish them and notify the elected candidates of said results and issue them with the respective credentials.
- i)** Regulate and enforce compliance with the regulations related to private contributions and state funding for political parties, with the faculty of ordering the audits deemed necessary at any time; for this purpose, the

- auditing or the treasury of each political party and its accountants must provide their mandatory cooperation.
- j) Ensure due compliance with the regulations regarding electoral advertising and election polls in accordance with this Act and other regulations that apply for this purpose.
  - k) Prepare and publish the electoral district map.
  - l) Prepare training programs for the citizens on the importance of citizen political participation and the financing of political parties to democracy.
  - m) Promote electoral reforms that it deems necessary and to collaborate in legislative processes for projects related to this area.
  - n) Carry out the consultation mentioned in Article 97 of the Political Constitution.
  - o) Act as administrative head of the Civil Registry and other electoral bodies and, in this capacity, issue its autonomous regulations of organization and service, as well as those of any organization under its control.
  - p) Hear pertinent appeals against decisions issued by electoral organizations.
  - q) Organize the referendum process and plebiscites mentioned in Articles 105 and 168 of the Political Constitution and make the respective results announcement.
  - r) Effectively ensure access by all participating political parties involved in the electoral process to the politico-electoral debates it organizes, once the official announcement of elections has been made by this Tribunal.
  - s) Regulate the provisions of this Act regarding the regulations relating to state funding and private contributions to political parties.

### **ARTICLE 13 - Composition**

The TSE shall be ordinarily composed of three presiding justices and six alternate justices appointed by the Supreme Court of Justice and elected by the vote of at least two-thirds of its total

members. They shall take the constitutional oath of office before the Supreme Court of Justice. They shall be appointed and deemed to be re-elected for terms of six years, except where a decision to the contrary is taken by the same majority.

When requiring the appointment of someone for a vacant position prior to the expiry of said term, the appointment shall be made for the rest of the term in such a way that the terms in office of one presiding justice and two alternates are renewed every two years, without prejudice to the possibility of their re-election.

The position of TSE member is incompatible with any other position remunerated by the State or other public institution, except teaching in higher education institutions.

One year before and up to six months after holding the general elections for the presidency and vice-presidencies or of members of the Legislative Assembly, the Tribunal must be constituted with its presiding members and two of the alternate members selected by the Supreme Court of Justice to become a five member Tribunal during that time. The same regulations shall apply six months before and up to three months after the municipal elections.

Justices working for the TSE shall be subject to the applicable working conditions and daily minimum working hours indicated by the Structural Law of the Judicial Branch for justices of the Supreme Court of Justice and they shall also receive the same compensations fixed for the latter.

#### **ARTICLE 14 - Quorum**

Quorum at the TSE shall be formed by absolute majority of its members, except in the following situations where the attendance of all member justices is required:

- a) Definitive announcements of popular elections.



- b)** Announcement of the result of popular consultations stipulated in the Political Constitution.
- c)** Substantive rulings in the cases stipulated in subsections 3), 4) and 5) of Article 102 of the Political Constitution and in definitive decisions of a jurisdictional nature.
- d)** Appointment of the heads of the Civil and Electoral Registries.
- e)** Any other situation expressly stipulated by law.

### **ARTICLE 15 - Alternate justices**

Whenever presiding justices are temporarily absent they shall be replaced by alternate justices following the procedure established in the Structural Law of the Supreme Electoral Tribunal. Absolute absences of presiding justices shall be replaced in the same way until the Supreme Court of Justice appoints a new presiding justice.

It is the obligation of the alternate justices to attend the Tribunal when they are to be members. Failure to comply with this stipulation shall entitle the Tribunal to remove the justice from the position and appoint another alternate justice to take their place.

Alternate justices summoned to become members of the Tribunal shall not be excused from the appointment, except for just cause.

### **ARTICLE 16 - Removal of disqualified justices**

Justices with legal grounds for recusal or who are disqualified on the grounds of a specific matter shall not sit on the Tribunal until the reason for the recusal or disqualification is no longer operative, and an alternate judge shall act in their place. In this respect, the provisions of the Structural Law of the Judicial Branch and the grounds regulated by the Law of Civil Procedure shall apply where applicable.

**ARTICLE 17 - Majority required for decisions**

The decisions and rulings of the Tribunal shall be decided by simple majority of those voting. If no majority is reached, a new voting round shall take place with two alternate justices acting as supernumeraries and where these justices are not replacing presiding justices or those replacing presiding justices.

In any case, to obtain this majority, when the decision contains several interdependent points, casting a dissenting vote in the first round shall not authorize the dissenting member voting thus to refrain from concurring with the decision of the other members. When there is only one dissenting member, that member must concur with any of the other opinions in order to constitute the majority, without this concurrence resulting in any liability.

**ARTICLE 18 - Ordinary and extraordinary sittings**

The Tribunal shall hold ordinary meetings on the days it determines in addition, it shall hold extraordinary meetings when convened by its President for urgent matters or when requested by a majority of justices in office.

**ARTICLE 19 - Private sittings, exceptions**

The Tribunal meetings shall be private, except when:

- a)** Vote counts; which previously accredited political parties are entitled to attend; are being held.
- b)** Representatives of political parties, supervisors accredited by political parties or interested parties and the Tribunal so decide.
- c)** Oral hearings take place in the exercise of their judicial activities.
- d)** The Tribunal itself orders it.

Voting shall always be carried out in private.

**ARTICLE 20 - Presidency and vice-presidency**

The Tribunal shall jointly appoint, from among its members, a President and a Vice President for a three-year term who can be re-elected. They must be presiding justices. The President of the Tribunal shall have the following powers:

- a) Preside over meetings, bring forward or extend sitting hours if urgent matters so require it.
- b) Establish the order in which the Tribunal shall handle the matters brought before it.
- c) Chair debates and put matters to the vote when the Tribunal deems debate ended.
- d) Act as the legal representative of the Tribunal.
- e) Authorize with his signature the reports to be sent to the branches of government.
- f) Other powers assigned to them by this Act or other statutory provisions.

**ARTICLE 21 - Temporary absences of the president**

The Vice President shall replace the President in the event of his temporary absence. If both are absent, the presidency shall fall to the other presiding justice and, in his absence, to the oldest alternate justice.

**SECTION II  
MINUTES AND DECISIONS OF THE TRIBUNAL****ARTICLE 22 - Logbook and approval of minutes**

The Tribunal shall keep records of its meetings and only adopted resolutions shall be entered therein, except if any one of its members requests the recording of a particular fact or circumstance. Once the minutes have been definitively approved, they shall be available to the public.

The minutes of each sitting shall be approved in the immediately following ordinary meeting. Before their approval, the justices can request the President for a complete reading, but this requirement is not mandatory for their approval.

### **ARTICLE 23 - Finality of the resolutions or acts of the Tribunal**

Except if otherwise stipulated, when the respective minutes are approved, the resolutions of the Tribunal shall become final. Justices present at a meeting shall be obliged to sign the respective minutes and if, for any reason, they are not present at the meeting in which the minutes are approved and signed, they must do so later.

Any justice present for the approval of the minutes may request review of what was decided in the sitting held immediately prior to the one in which the approval is being given or request modifications to its drafting before its approval. If not accepted, the justice shall record their dissent and sign the minutes.

## **SECTION III**

### **SPECIFIC FUND AND GENERAL FUND OF THE SUPREME ELECTORAL TRIBUNAL**

#### **ARTICLE 24 - Charge for some non-essential services of the Supreme Electoral Tribunal**

The TSE may charge a fee for commercial electronic access to the information included in its databases through the secure mechanisms it deems appropriate and safeguard the right to privacy. In this respect, it may contract with legal entities under public or private law for the electronic provision of the information contained in its databases, with the Tribunal itself determining the tariff regime applicable to these contractual relationships. The information provided by the Tribunal shall respect the principle of informational self-determination and therefore it shall not provide confidential information. Similarly, the Tribunal may charge for providing other non-essential services such as publications,

reports or any work produced or sponsored by the Institution, as well as training for external users in matters pertaining its remit, except for political parties or for genealogical studies.

The financial resources generated under this regulation shall be deposited into an authorized treasury account of the National Treasury of the Ministry of Finance, known as the Supreme Electoral Tribunal Specific Fund. This Fund shall be used to improve the provision of the public services which fall within the exclusive remit of the Tribunal. The respective inclusion by way of the ordinary or extraordinary budget of the Republic must be effected in order to dispose of these resources, duly differentiating between expenses chargeable to the Fund in question.

#### **ARTICLE 25 - General Elections Fund**

The TSE shall have a fund known as General Elections Fund to procure the goods and services that it deems necessary for the organization of elections and consultative processes whose operation shall be regulated by means of regulations and must be subject to the control mechanisms and liabilities stipulated by law. To this end, the National Budget Office shall include the resources determined by the Tribunal in the appropriate budgetary head. The resources of this Fund shall be deposited in the treasury account of the TSE and the National Treasury shall be responsible for transferring resources with the immediacy required by the Tribunal, in accordance with the procedures characteristic of the management of resources in the treasury. Once the electoral or consultative processes have finished, the Tribunal shall liquidate this Fund within a period of four months and shall deposit any surplus in the General Fund of the State Treasury.

## **CHAPTER III ELECTORAL REGISTRY**

### **ARTICLE 26 - Description**

The Electoral Registry is a body that is directly under the jurisdiction of the TSE. The decisions of its director can be appealed before the Tribunal.

### **ARTICLE 27 - Composition**

The Electoral Registry shall be headed by a director who can be appointed and removed freely by the TSE, in confidence. It shall also have the required personnel.

In the absence of express provisions in this respect the legal provisions stipulated for the Civil Registry shall apply to the Electoral Registry, provided that they are compatible with its functions.

### **ARTICLE 28 - Functions**

The Electoral Registry shall have the following functions:

- a)** To maintain the register of political parties. This register shall contain the information indicated in Article 56 of this Act. These shall only be effective against third parties with effect from their registration.
- b)** To decide at first instance on applications for registration from political parties, party bylaws and modifications thereto, and candidacies for popularly elected positions and other instruments subject to entry in the register of political parties.
- c)** To issue certifications associated with registration.
- d)** To keep records of private and state contributions to political parties and report any irregularities detected to the TSE.
- e)** To carry out, administer and coordinate election programs in accordance with the directives of the TSE.

- f) To appoint delegates who shall attend political party conventions authorized by the Tribunal when so required; and to supervise their work.
- g) To coordinate the printing of ballots when necessary or when charged to do so by the TSE.
- h) Any other functions assigned to it by election legislation or the Tribunal.

## **CHAPTER IV CIVIL REGISTRY**

### **ARTICLE 29 - Functions and obligation to show Civil Registry documents**

In addition to the functions assigned to it by the Political Constitution and the law, the Civil Registry shall carry out the functions expressly stipulated by this Act.

Neither the director-general nor the responsible officials may refuse to show any book, file or document of the Civil Registry to any person requesting them, except for just cause. The TSE shall decide appeals concerning the conflicts that may arise owing to these requests. If several supervisors appear simultaneously, each party shall be assigned, where necessary, alternating short periods of equal duration for review.

## **CHAPTER V ELECTORAL BOARDS**

### **SECTION I GENERAL PROVISIONS**

#### **ARTICLE 30 - Electoral boards**

The Electoral Boards shall be cantonal boards, one in each canton, and as many polling station committees as established by the Tribunal for each election in each electoral district in accordance with this Act. The Tribunal shall also regulate the

setting up of polling stations in order to enable incarcerated individuals and Costa Rican citizens abroad to vote.

The position of member of boards of elections is honorary and obligatory and, excepting the provisions of Article 32 of this Act, carries immunity from arrest. Therefore, no member of the boards can be arrested from the time of their appointment until the corresponding announcement of election results except by the written order of a competent judge or if discovered *in flagrante delicto* by the authorities. Voters shall also have similar protection on polling day.

Given that the boards are electoral organizations, their members are public officials in the exercise of their office.

### **ARTICLE 31 - Requirements for membership of Electoral Boards**

A member of an electoral board must satisfy the following requirements:

- a) Be a citizen in the enjoyment of all civil rights.
- b) Not be legally disqualified.
- c) Be able to read and write.

The TSE shall appoint the members of cantonal boards and the members of the polling station committees shall be appointed at the proposal of cantonal board members. In accordance with the provisions of this Act, the proposals made by interested political parties shall be taken into account in the appointment of members.

No one may be appointed a member of more than one electoral body in the same election.

Furthermore, the Tribunal shall replace any originally appointed member in the event of death or justified inability to perform their duties without any formalities. It may also replace individuals who



do not satisfy any of the aforementioned requirements, who are subject to one of the prohibitions stipulated in this Act or who fail to carry out the duties of their office.

By way of an exception and solely for polling day, the corresponding cantonal board shall be empowered to remove or replace any of the members of the polling station committees if it is aware of any fact rendering the member unable to perform their duties and justification for this action shall be given and immediately notified to the Tribunal.

The Tribunal shall ensure the members of Electoral Boards are voters in the same canton where they are supposed to perform their duties, in order to make it easier for them to vote.

### **ARTICLE 32 - Performance of duties**

The office of member of the Electoral Boards is honorary and obligatory.

Members of the Electoral Boards shall act with absolute impartiality and shall only comply with election legislation and the instructions of the TSE and election advisers. While performing their duties, members shall not take the fact that they were proposed by a political party into account.

Attendance at meetings of boards of elections is mandatory. At the request of any of their fellow members, of the election adviser or of the representative of any political party, reluctant board members shall be compelled to perform their duties by the police force, without prejudice to the sanctions stipulated in this Act.

### **ARTICLE 33 - Substitute members of Electoral Boards**

Every member of the Electoral Boards may have one or two substitutes to replace them when temporarily absent. Political parties participating in electoral processes at national, provincial or cantonal level shall have the opportunity to nominate

substitute members of the Electoral Boards of interest to them who shall be appointed by the TSE. These substitutions shall be subject, in this respect, to the same provisions stipulated for full members. The appointment, admittance and swearing in of substitute members shall be carried out in the same way as for full members. Political parties registered at national, provincial or cantonal level that do not register their candidates for popular election positions at the appropriate time shall lose the right to nominate candidates to the boards.

Members of Electoral Boards can be replaced when the originally appointed delegate cannot exercise the office owing to death or any other justified reason, in the opinion of the TSE or the cantonal board, as the case may be. The corresponding party, or failing this, the Tribunal, shall nominate a new member to replace the member who cannot exercise the office.

At the expiry of the deadline for swearing in to which Article 38 of this Act refers, parties can no longer nominate new replacements.

### **ARTICLE 34 - Premises for Electoral Boards**

During the exercise of their functions and as long as they do not possess their own premises, Electoral Boards shall occupy -on their own authority- schools and other public premises that are not in use and which they consider adequate for this purpose. They shall require the authorization of the TSE to sit in specific premises. All sittings of the Electoral Boards shall be subject to the right of electoral supervision and observation.

### **ARTICLE 35 - Appeals and complaints**

The decisions of cantonal boards and the count carried out by polling station committees can be appealed before the TSE, in accordance with the procedures laid down in this Act. Appeals, which shall not have a suspensory effect, must be submitted by the supervisor or representative of any political party participating in the election and must be supported with evidence for the case on pain of inadmissibility.

Any citizen may file a complaint concerning the acts of the Electoral Boards with the Tribunal within three days, except on polling day when complaints should be filed that same day. The TSE shall issue a ruling without further formalities and the ruling shall take immediate effect.

## **SECTION II CANTONAL BOARDS**

### **ARTICLE 36 - Functions of cantonal boards**

Cantonal boards shall have the following functions:

- a)** To propose the names of members of the polling station committees of their canton to the TSE. The Tribunal must carry out the appointments no later than within fifteen days of receipt of the proposal.
- b)** To coordinate their activities with the Electoral Registry.
- c)** To set up polling stations in accordance with the directives of the Electoral Registry.
- d)** To receive documents and election materials from the Electoral Registry and distribute them to the polling station committees.
- e)** To submit documents and election materials received from the polling station committees to the Electoral Registry.
- f)** Any other functions assigned by law or by the Tribunal.

### **ARTICLE 37 - Composition of cantonal boards**

Cantonal boards shall comprise one voter proposed by each of the political parties participating in the election with candidacies registered in that electoral district.

Each political party shall notify the TSE in writing of its proposed presiding and substitute members for each canton three months before an election and through the chairman of the superior executive committee of the party or the chairman of the executive committee of the cantonal caucus. Failure to do

so shall entail the loss of all rights to propose members of the respective board.

Within three days of the expiry of this deadline, the Tribunal shall rule on the appointments of the individuals proposed. If any of the proposals is contrary to law, it shall notify the proposing party of this for the corresponding replacement and shall publish the resolution in which the constitution of the cantonal boards is declared in *La Gaceta*, the official gazette, following the same order as the electoral district map.

### **ARTICLE 38 - Establishment of cantonal boards**

Within eight days of the publication of the resolution referred to above, the members of the cantonal boards shall appear for swearing in before the electoral adviser appointed by the Tribunal or the police authority of the respective location.

When establishing the cantonal boards, the election adviser or the police authority shall receive the vote of each person appointed as a presiding member, or if absent, that of their substitute, for the positions of chairman and secretary. Those receiving the most votes cast by those present shall be deemed elected; in the event of a tie, the winner shall be determined by casting lots. Next, the working location and times shall be announced. This determination may change subsequently, but the change shall not take effect until two days after notification in the manner stipulated in this Act.

The absence of one or more individuals appointed as full members and their respective substitutes shall not prevent the establishment of the boards, provided that at least two of its members have appeared, without prejudice to the completion of the swearing in afterwards.

### **ARTICLE 39 - Composition of the boards in special cases**

If only two or fewer members are proposed when the cantonal boards are being constituted, the TSE shall complete them with

the additional individuals required so that they shall comprise at least three members.

When a similar situation arises during the constitution of polling station committees, the same procedure shall be followed. The same procedure shall also be followed if the parties do not propose members for a polling station committee within the deadline stipulated in this Act.

The alliance or merger of two or more parties shall be considered to be a single party for the purpose of the corresponding proposal in Electoral Boards.

### **SECTION III POLLING STATION COMMITTEES**

#### **ARTICLE 40 - Functions and duties**

The polling station committees shall be charged with the following:

- a)** To receive and review electoral documentation and materials and to immediately notify the Tribunal or the election adviser for the respective canton of any omission or irregularity discovered.
- b)** To prepare records of the commencement and closing of voting.
- c)** To receive voters' ballots and resolve any incidents occurring in this respect.
- d)** To issue certifications of the number of votes cast at any time when so requested by a duly accredited party supervisor, without exceeding three per party with the certifications being signed by the chairman and the secretary.
- e)** To carry out preliminary counts of ballots cast and compute those cast for each party separately.
- f)** To notify the Tribunal as soon as possible of the result of the voting by the means at its disposal.

- g)** To hand over election documents and surplus materials to the cantonal board or the person designated by the Tribunal once the final record of voting has been drawn up.
- h)** Any other functions stipulated by law or ordered by the Tribunal.

#### **ARTICLE 41 - Composition (\*)**

Polling station committees shall comprise at least three individuals and their respective substitutes.

Every party (*registered at the national level*)\* participating in the election with registered candidacies may propose one voter for each board and their respective substitute. To do so, each party shall notify the respective cantonal board in writing of its proposed full and substitute delegates two calendar months before an election and through the chairman of the executive committee of the party or the chairman of the executive committee of the cantonal caucus. Failure to do so shall entail the loss of all rights to propose members of the respective board.

Within three calendar days of the expiry of this deadline, the respective cantonal boards must receive the appointments that have been made and shall publish the resolution declaring the polling station committees of its canton to be constituted, following the order of the electoral district map.

If the cantonal board does not send proposals for members of the polling station committee within the stipulated deadline, or if it sends incomplete ones, the Tribunal shall directly appoint the individuals required for the polling station committee to be duly composed of at least three members. The Tribunal shall encourage voluntary service by citizens in the polling station committees.

The Tribunal shall regulate the procedure for recruiting members of the boards and carrying out these appointments.

(\*) In final judgment N.º 8297-2010 from May 5, 2010 at 14:45 hours, the Supreme Court declared an unconstitutional action filed against Article 41 of the Electoral Act as admissible. Therefore the phrase "registered at the national level" included in the second paragraph of this article was void. The regulation was challenged since it considers the composition of polling station committees only according to the representation of political parties registered at the national level thus affecting the parties at cantonal level by not taking them into account. This judgment has declaratory and retroactive effect to the valid date of the annulled regulation without prejudice to the rights acquired in good faith. The operative paragraph is transcribed as follows: "The action filed was declared admissible. The phrase "registered at the national level" included in the second paragraph of Article 41 of the Electoral Act, Law No. 8765 of August 19, 2009 was void. This judgment has declaratory and retroactive effect to the valid date of the annulled regulation without prejudice to the rights acquired in good faith. This declaration shall be reviewed at the official gazette *La Gaceta* and published entirely at the Judicial Journal. To be notified."

Complete judgment N.º 8297-2010 was published at the Judicial Journal N.º 140 of July 27, 2010.

## **ARTICLE 42 - Establishment of polling station committees**

Immediately after appointing the members of the polling station committee, the Tribunal shall notify the cantonal boards and the corresponding police authority. The election adviser shall communicate the time, date and location for these individuals to appear to be sworn in.

If members of the board do not appear before the aforementioned authorities for reasons of distance or any other just cause, they may be sworn in before the respective police district delegate or the election adviser appointed by the Tribunal provided that they do so within the stipulated period. The Tribunal must be notified that these members have been sworn in for the polling station committee in question to be deemed established.

If a member of a polling station committee has not appeared to be sworn in one month before the election, the party that appointed such member shall be entitled to propose a new voter as a member of the board in question. The Tribunal shall revoke the appointment and if the polling station committee is left with less than three members as a consequence of this,

it shall immediately appoint the new members required for the board to function with at least three members.

The positions of chairman and secretary of the polling station committee shall be distributed by the TSE.

The distribution carried out by the Tribunal shall be immediately notified to the political parties, the cantonal boards, the Electoral Registry and the police authority of the location where the board shall perform its duties.

#### **ARTICLE 43 - Quorum for the polling station committees**

The polling station committees shall take up their duties with any number of their members present and if only one member is present, that member shall assume the function of ad hoc chairman.

#### **ARTICLE 44 - Election assistants**

The TSE may appoint election advisers to advise the polling station committee and notify the Tribunal of any incident that occurs. The functions of these election advisers shall be regulated by the Tribunal.

### **CHAPTER VI NATIONAL CORPS OF DELEGATES**

#### **ARTICLE 45 - Composition of the National Corps of Delegates**

The National Corps of Delegates referred to in paragraph 6 of Article 102 of the Political Constitution shall be composed of citizen volunteers who may be appointed and removed by the TSE on its own initiative or at the proposal of the head of the National Corps of Delegates or the official appointed as the liaison between this Corps and the Tribunal.

The internal organization, hierarchy, functions and responsibilities of the National Corps of Delegates shall be governed by the regulations that the TSE shall issue.



**ARTICLE 46 - Requirements**

The requirements for joining the National Corps of Delegates are:

- a) To be a Costa Rican citizen.
- b) To be a citizen in the enjoyment of all civil rights.

Members of the National Corps of Delegates shall be subject to the grounds for disqualification stipulated in the second paragraph of Article 27 of the Supreme Electoral Tribunal and Civil Registry Structural Law, in addition to those stipulated in this Act.

**ARTICLE 47 - Liability**

The delegates' acts shall be subject to the liability regime established in Chapter Two, Title Seven, Book One of the General Public Administration Act and can be the subject of complaints before the TSE.

**TITLE III  
POLITICAL PARTIES****CHAPTER I  
GENERAL PROVISIONS****ARTICLE 48 - Right to form political parties**

The right to come together in political parties and the right of individuals to elect and be elected shall be exercised in accordance with the provisions of Article 98 of the Political Constitution. Only registered parties that have completed their democratic process of periodical renewal of party structures and authorities may participate individually or in alliance in Presidential, legislative and municipal elections.

None of the regulations or provisions of this Act shall be interpreted in such a way as to weaken the role constitutionally assigned to political parties as the expression of political pluralism, shapers of

the manifestation of popular will and vehicles for the participation of the general public in national politics.

#### **ARTICLE 49 - Legal regime**

Political parties are voluntary associations of citizens for non-profit purposes, created for the purpose of participating actively in national, provincial or cantonal politics according to their registration, and they perform a function of relevant public interest. They shall be governed by the Political Constitution, this Act, their bylaws, regulations, ideological charters and any other documents agreed by them.

#### **ARTICLE 50 - Organization and internal democracy of parties**

Political parties shall be governed by the Political Constitution, this Act, their bylaws, ideological charters and any other documents freely agreed by them by virtue of the principle of self-regulation.

The organization and activities of political parties must be governed by their own bylaws, provided that the legal order, principles of equality, free participation of members and other democratic principles are observed. The TSE shall monitor the observance of these principles and its decisions in these matters shall be binding on political parties.

Political parties shall be deemed to be established and shall have their own legal personality with effect from the date of their registration with the TSE.

#### **ARTICLE 51 - Scope of the electoral participation of political parties**

Political parties shall be classified as national when they register for elections to the Presidency and the Vice-Presidencies of the Republic, a constituent assembly and the election of members of the Legislative Assembly or municipal positions throughout the nation.

Political parties shall be classified as provincial when they propose to participate solely in the election of members of the Legislative Assembly or provincial municipal positions.

Political parties shall be classified as cantonal when they only register to participate in elections for cantonal municipal positions.

Political parties registered at the national level shall be understood to be registered at the provincial and cantonal levels in all the provinces and cantons of the country.

### **ARTICLE 52 - Bylaws of political parties**

The bylaws of political parties constitute their fundamental internal organization and must contain at least the following:

- a)** The name of the party.
- b)** Its symbol.
- c)** The express declaration that its political action is not subject to the stipulations of foreign organizations or states. This prohibition shall not prevent parties from joining international organizations, participating in their meetings and subscribing declarations, provided that these do not threaten the sovereignty and independence of the Costa Rican Republic.
- d)** The doctrinal principles concerning economic, political, social and ethical issues.
- e)** The formal pledge to respect the constitutional order of the Republic.
- f)** The nominal roll and structure of the organs of the party, their powers, functions and method of constituting them, appropriate internal procedures for contesting its decisions and the grounds and procedures for the removal of individuals occupying the positions.
- g)** The method of convening members of its organizations to meetings, guaranteeing their effective communication, with the due notice and inclusion of the agenda, the place, date and time for both the first and second

notice of convocation, where applicable. At least one quarter of the members of the respective organ must be convened when requested.

- h)** The quorum required for all its organs to meet, which cannot be less than half plus any additional members.
- i)** The number of votes required to adopt resolutions. This cannot be less than the simple majority of those present.
- j)** The method of recording minutes so that the authenticity of their contents is guaranteed and the media where general resolutions shall be published. The Tribunal shall regulate the authentication mechanisms and the formal management of logbooks of political parties.
- k)** The method of selecting candidates for popularly elected positions, the nominations shall necessarily require the ratification of the general assembly of the party, except for conventions for the nomination of candidates for the Presidency of the Republic, in which case the will of the majority of this process shall be final.
- l)** The parameters for the dissemination of election advertising that shall be used in the respective internal processes in which the official listed candidates participate.
- m)** The mechanisms guaranteeing the effective publicity of their accounting and financial information.
- n)** The regulations enabling public disclosure of the amount of each type of contributions received by the party and the identity of the contributors. Similarly, provision should be made for mechanisms required to determine the origin thereof, when the situation so warrants. The treasurer shall be obliged to communicate this data quarterly to the superior executive committee of the party and to the TSE. Reports shall be sent monthly during the political campaign period.
- o)** The regulations concerning the observance of gender equality in both the party structure and the popular election ballots.
- p)** The mechanisms ensuring the principles of equality, non-discrimination and parity in the party structure and in each and every one of the electoral lists for popular

elections, and the mechanism for the alternation of men and women in electoral lists.

- q)** The method of distributing state funding during election and non-election periods in accordance with the provisions of the Political Constitution. The resources for enablement of the party must be distributed permanently and equally between men and women with the aim of training, shaping and promoting knowledge of human rights, ideology, gender equality, encourage leaderships, political participation, empowerment, nomination and the exercise of decision-making positions, among others.
- r)** The rights and obligations of party members.
- s)** The mechanism for the effective participation of youths in the various ballots, party organs and various popularly elected positions.
- t)** The sanctions stipulated for members if any, and the mechanism for exercising the right of defense and the right of appeal with respect to sanctions.

### **ARTICLE 53 - Rights of party members**

In addition to the other expressly established rights, political parties shall guarantee their members the following rights in their bylaws:

- a)** The right to freedom of association and dissociation.
- b)** The right to elect and be elected to internal party positions and candidacies for popularly elected positions.
- c)** The right to dissent, freedom of thought and the free expression of ideas.
- d)** The right to free and equal participation of men and women, in accordance with the provisions of paragraph o) above.
- e)** The method for instituting actions and internal and judicial procedures to contest decisions of party organs deemed contrary to law or to the bylaws, or to report acts of its members deemed unlawful.
- f)** The right to political training.

- g)** The right to know of any decision, resolution or document committing the party or its organs.
- h)** Compliance with the law in the application of internal sanctioning procedures by the relevant authorities.

#### **ARTICLE 54 - Duties of party members**

Political party members of whatever position, in accordance with the categories established by the bylaws, must:

- a)** Share the aims of the party and cooperate in their attainment.
- b)** Respect the ideological and doctrinal orientation of the party and contribute to its definition and actualization in the face of the social, cultural and economic changes in national reality.
- c)** Comply with election legislation.
- d)** Respect the internal democratic procedure.
- e)** Contribute financially according to their means.
- f)** Participate in processes with absolute respect for the dignity of others.
- g)** Refrain from all forms of violence and any slanderous, unfounded or defamatory utterances directed at fellow party members or members of other parties or political organizations.
- h)** Observe and comply with resolutions validly adopted by the party management organs.
- i)** Any other duties stipulated in the bylaws that are in accordance with law.

#### **ARTICLE 55 - Exclusivity of name, symbol and slogan**

A name, symbol and slogan of the party shall belong to it exclusively. Registration of a party with distinctive elements equivalent or similar to those of another party registered at any level or entitled to precedence in registration is inadmissible, when this may lead to confusion. With respect to these distinctive elements, the Costa Rican flag or coat of arms or those of other

nations and the invocation of religious motives or national symbols shall not be allowed.

Registered political parties may change their names, symbols or slogans at any time, subject to the modification of their bylaws, except within the eight months prior to an election. In this respect, they shall comply with the provisions of the foregoing paragraph.

## **CHAPTER II REGISTRY OF POLITICAL PARTIES**

### **ARTICLE 56 - Recordable instruments**

As a requirement for effectiveness and in order to be binding on third parties, the constitution, cancelation, merger, alliance, legal capacity, bylaws, the composition of internal organs and the electoral lists of political party candidates and modifications agreed to these instruments must be registered with the Electoral Registry.

Generally, public authorities shall only acknowledge the acts of political parties executed by duly registered representatives and party organs.

The Electoral Registry is empowered to issue the respective registration number to registered parties.

### **ARTICLE 57 - Party Logbooks**

Party logbooks must receive the prior stamp of the Electoral Registry and must be deposited with said Registry once concluded. The TSE shall determine the period for which the Registry shall safeguard the aforementioned books. At the expiry of this period, they shall pass into the custody of the National Archives.

Political parties shall have a true copy of their records for consultation by their members. The TSE may request political parties at any time to submit certified copies of their logbooks or

any of the instruments in particular, in order to fulfill aspects of its responsibility.

The logbooks must be replaced immediately in the event of loss, in the terms of the regulation issued by the Tribunal to such effect.

### **CHAPTER III PROCEDURE FOR THE REGISTRATION OF POLITICAL PARTIES**

#### **ARTICLE 58 - Constitution**

In order to establish a political party at national or provincial level, any group of a minimum of one hundred citizens may appear before a notary public so that the latter shall insert the instrument relating to this act in their archives. When forming a party at cantonal level, the group may number more than fifty citizens provided that they are electors of the respective canton.

The following must be included in the deed of constitution:

- a)** The names and capacities of all individuals who are members of the applicant group.
- b)** The names of the members of the provisional executive committee.
- c)** The provisional bylaws of the party which must formally comply with the requirements stipulated in Article 52 of this Act.

#### **ARTICLE 59 - Constitution of party organs**

Once the provisional executive committee has been constituted, it shall take the measures and actions required to set up the party organs as a requirement necessary for its registration. To this end, it must convene the corresponding general assemblies, in line with the level at which the party shall be registered. The superior general assembly of every party shall be responsible for ratifying the provisional bylaws and constituting or validating the organs that the party must possess in accordance with these and election legislation.



**ARTICLE 60 - Application for registration**

Applications for registration must be submitted by the chairman of the provisional executive committee to the Electoral Registry within two years from the date of the deed of constitution, as long as it is not within twelve months prior to the election in which the party expects to participate.

Neither the Electoral Registry nor the Tribunal may issue any resolutions whatsoever ordering the registration of parties within the six months prior to polling day.

In any case, all parties whose resolutions have not been issued by that time for reasons exclusively imputable to the management of the Electoral Registry shall be deemed to be registered, provided that the application for registration was submitted in time and in the proper form.

The following documents must be submitted together with the application for registration:

- a)** The certification of the notarial deed of constitution of the party referred to in Article 58 of this Act.
- b)** The registration of the minutes of the corresponding general assembly, in accordance with the level at which the party shall be registered, indicating the name of the TSE delegate present at said general assemblies.
- c)** Bylaws duly approved by the superior general assembly.
- d)** The names and capacities of the members of the party organs with details of their positions.
- e)** Three thousand subscriptions of voters registered in the Civil Registry as of the date of the constitution of the party, for parties at national level. One thousand registered members are required for provincial parties and five hundred registered members are required for cantonal parties.

The Electoral Registry shall not register political parties and bylaws of political parties that do not observe the principles of equality,

non-discrimination, parity and the alternation mechanism in their party structure nor renew their registration and neither shall it recognize the validity of their resolutions in violation of these principles.

### **ARTICLE 61 - Composition of party authorities**

All delegations of the cantonal, provincial and national caucuses of political parties and all their management and political representation organs shall be constituted on a parity basis, in accordance with the principles, mechanism and criteria stipulated in this Act.

### **ARTICLE 62 - Objections**

Once the application for registration has been received, the Electoral Registry shall publish a notice for five days in *La Gaceta*, the official gazette, summarizing the contents of the expected registration and informing interested individuals to file objections within fifteen calendar days of the last publication.

### **ARTICLE 63 - Challenging of resolutions**

Any of the members of the party conferences stipulated in Article 67 of this Act, in parties in the process of formation or registration may challenge the validity of the resolutions adopted therein. Reports from TSE representative(s), among other items, shall serve as evidence for ruling on such challenges. The provisional executive committee shall be responsible for ruling on challenges, except when the resolutions in question are those of the supreme governing body.

Decisions taken in this respect by the said party instance can be appealed to the Electoral Registry within three days of the notification of the ruling. The same also applies if the challenge is to resolutions of the supreme governing body. The result of the appeal to this electoral body can be appealed to the TSE within forty-eight hours of its notification for definitive settlement.

**ARTICLE 64 - Legitimacy of signatures**

Challenges to the legitimacy of membership signatures must also be filed in the forum stipulated in Article 62 of this Act and the Electoral Registry shall rule on this when issuing its decision concerning the registration of the party. Without prejudice to the decision taken in this respect, if the facts can be constitutive of a crime, the matter shall be notified to the Office of the Attorney-General for appropriate action. Such a notification shall not suspend the registration process, but if the party does not obtain the required legitimate signatures as a consequence of criminal sanctions, the Electoral Registry shall cancel the registration, without this decision affecting accomplished formalities.

**ARTICLE 65 - Processing deadline**

Once the deadline for objections has expired, the Electoral Registry shall rule on any objections without further formalities and shall grant or deny registration by means of a duly reasoned decision within a period of one month. This decision must be communicated by the Electoral Registry to the party or parties involved in the process.

**ARTICLE 66 - Failure to register a political party**

If the party is not registered in the Electoral Registry within the next two years from the date of the deed of constitution, it shall be deemed unconstituted for all legal intents and purposes except where the failure to register is due to reasons exclusively imputable to the elections administration body. In this case, the Electoral Registry must register the party immediately and commence an investigation leading to a report detailing the factors that contributed to the failure to register the party and the determination of the administrative liability of the public officials involved.

## **CHAPTER IV ORGANIZATION AND POWERS OF PARTY ORGANS**

### **ARTICLE 67 – Political party organs (\*)**

Without prejudice to the self-regulatory power of political parties to define their own internal organization, these must at least include:

- a)** A district conference in every administrative district composed of the voters affiliated to the party in each district. (\*)
- b)** A cantonal conference in each canton composed of five delegates from each district elected by the respective district committee.
- c)** A provincial conference in each province composed of five delegates from each one of the cantonal conferences of the respective province.
- d)** A national conference as the supreme authority of the party composed of ten delegates from each provincial committee.
- e)** An executive committee appointed by each conference, composed of at least a chairman, a secretary and a treasurer with their respective substitutes and one person responsible for compliance.

Party structures relating to local committees shall accord with the territorial level at which they are registered. National, provincial or cantonal committees, depending on the level at which the party is registered, shall be the highest-ranking governing bodies in their capacity as the highest authority of each party.

(\*) In final judgment N.° 9340-2010 from May 26, 2010 at 14:30 hours, the Supreme Court declared section a) of Article 67 as VOID due to unconstitutionality. Such unconstitutionality was in effect as of September 21, 2011 when this judgment was entirely published in the Judicial Journal n° 181.

Background: An unconstitutional action filed against Article 60 of the Electoral Act (Law N.° 1536) was partially declared admissible. The regulation was challenged only because it imposes a party structure on political parties based on the administrative division of the country thus requesting they hold district,

cantonal, provincial and national conferences where a specific number of participants is established and excluding the number of voters of each electoral district. The operative paragraph is transcribed as follows:

"The action filed against section a) of the first paragraph of Article 60 of the Electoral Act, Law 1536 of December 10, 1952 is declared ADMISSIBLE by unanimous decision. In this way (sic), section a) of Article 67 of the Electoral Act, Law 8765 of August 19, 2009 is void due to related actions. Its text is as follows: "A district conference in every administrative district composed of the voters affiliated to the party in each district." The action was declared inadmissible in all other respects. Justice Armijo Sancho and Justice Cruz Castro abstained from voting when assessing the unconstitutionality of the phrase included in section a) of the first paragraph of Article 60 of the Electoral Act, Law 1536 of December 10, 1952, which establishes: "a cantonal conference shall be composed of five delegates from each district, by the respective district committee. A provincial conference shall be composed of five delegates from each one of the cantonal conferences of the respective province." In this way, sections b) and c) of Article 67 of the Electoral Act, Law 8765 of August 19, 2009 are declared unconstitutional due to related actions. Their text is as follows: section b) "A cantonal conference in each canton composed of five delegates from each district elected by the respective district committee," section c) "A provincial conference in each province composed of five delegates from each one of the cantonal conferences of the respective province." The effects of the declared unconstitutionality are esteemed as of the complete publication of this judgment in accordance with the provisions of Article 91 of the Constitutional Jurisdiction Act. This declaration shall be reviewed at the Official Journal and published entirely at the Judicial Journal. This declaration shall be notified to the President of the Legislative Assembly and to the Supreme Electoral Tribunal. To be notified."

Complete judgment N.º 9340-2010 was published at the Judicial Journal N.º 181 of September 21, 2011.

## **ARTICLE 68 - Deregistration**

Excepting the provisions relating to coalitions, the Electoral Registry shall immediately deregister political parties that do *(not participate)\** not obtain a number of votes equivalent to or greater than the number of membership subscriptions required in this Act in the respective election.

(\* ) In final judgment N.º 16592-2011 from November 30, 2011 at 15:30 hours, the Supreme Court declared the phrase "do not participate" included in Article 68 of the Electoral Act as VOID due to unconstitutionality.

Background: The regulation states that except for the provisions relating to coalitions, the Directorate General of the Civil Registry shall immediately deregister political parties that do not participate or obtain a number of votes equivalent to or greater than the number of membership subscriptions required in this Act in the respective election. In the appellant's view, the regulation in question undermines the principle of political pluralism, the rights of minorities and democratic principles since intervening, or actively participating in national politics, is not merely related to the elections. It is claimed that the regulation in question openly favors mainstream parties and leaves several social minority groups without representation and with political parties that face more economic, organizational and working difficulties that –in many cases– keep them from participating in all electoral processes or from being successful at the ones they participate in. On the other hand, it is pointed out that Article 68 of the Electoral Act lays down an automatic penalty although there is no contravention or breach of a legal liability. It emphasizes that the deregistration of a political party is a measure or a sanction that should take place only after the due diligence and the right of defense caused by duly classified serious grounds, namely actions prohibited by the law. The operative paragraph is transcribed as follows:

“The action filed is declared admissible and, consequently, the phrase “do not participate” included in Article 68 of the Electoral Act, Law N.º 8765 of August 19, 2009 is VOID due to unconstitutionality. Its current text is as follows: “Article 68 - Excepting the provisions relating to coalitions, the Electoral Registry shall immediately deregister political parties that do not obtain a number of votes equivalent to or greater than the number of membership subscriptions required in this Act in the respective election.” This judgment has declaratory and retroactive effects to the valid date of the annulled regulation without prejudice to the rights acquired in good faith. This declaration shall be informed to the Legislative and Executive branches. This declaration shall be reviewed at the Official Journal and published entirely at the Judicial Journal. To be notified. Justice Calzada Miranda offers distinct motives. Justice Cruz and Justice Castillo comment.”

Complete judgment N.º 16592-2011 was published at the Judicial Journal N.º 57 of March 20, 2012.

## **ARTICLE 69 - Functioning of party conferences**

Conferences shall be subject to the following rules:

- a) Every party may expand its conferences provided that members are selected on the basis of democratic principles and representation. The total number of additional members of each one must always be less than that of territorial delegates.

- b) The quorum for each conference shall be composed of an absolute majority of the total of its members and its resolutions shall be taken by an absolute majority of individuals present, except in matters for which the bylaws stipulate a vote of the highest body.
- c) Delegates appointed by the TSE must be present when every cantonal, provincial and national conference is being held, to certify compliance with the formal requirements stipulated in this Act and the party bylaws and they shall check them. The Tribunal may appoint a single delegate to handle several electoral districts for district conferences. The following rules must be observed in both cases:
  - 1) The political party must notify the TSE of the location, time, date and general content of the agenda for these conferences, on pain of their nullification. Such notifications must be effected within a period providing at least five working days' notice so the Tribunal can appoint its delegates when so required and coordinate with the political party in question.
  - 2) Notification of the TSE and the presence of a Tribunal delegate are not required for meetings convened by political parties to report, understand and decide on activities and actions of interest to them that differ from those that are election-related.

## **ARTICLE 70 - Administrative organs**

The highest-ranking governing body shall be responsible for the supreme political administration of the party. The decisions these party conferences adopt in the exercise of the powers conferred by bylaws and the law shall be binding on lower organs and conferences. Notwithstanding the fact that intermediate administrative organs can be created by the party bylaws, their actions shall be reviewable by the said party conferences. Sectorial representatives may be members of the administrative organs as long as they are selected democratically. However, the fundamental decisions of political parties are non-delegable.

The modification of party bylaws, creation of internal organs, definition of their powers and the power to issue its regulations shall fall into this category.

### **ARTICLE 71 - Executive organs**

Each conference shall have an executive committee responsible for the execution of its decisions and the other functions assigned to it by the bylaws.

The supreme executive committee shall comprise at least a chairman, a treasurer and a secretary-general appointed by the highest-ranking governing body. The compliance officer shall be responsible for supervision and monitoring of resolutions, and they shall have a voice but no vote and shall be elected by the same party organ that appoints the executive committee.

Every member of the executive organs shall have a substitute also appointed by the highest-ranking conference of the party.

### **ARTICLE 72 - Functions of the compliance officer**

The compliance officer shall have the following functions:

- a)** To ensure that the decisions of party organs are complied with in accordance with the provisions of the bylaws and the laws governing electoral matters.
- b)** To supervise the application of regulations in all levels of the party.
- c)** To inform the highest body of violations of these regulations in a lower organ or non-compliance with resolutions in general.
- d)** Submit annual reports to the conference that appointed them compliance officers.

This supervisory organ may act at the request of a party, on a complaint or at its own initiative.



**ARTICLE 73 - Ethics and discipline tribunals**

Political parties shall comprise organs charged with the ethics and discipline of its members, whose members shall be appointed by the highest-ranking governing body. To this end, functions, powers, procedures and sanctions must be clearly stipulated in its regulations. The supreme executive committee of the party shall propose these regulations.

The regulations shall be approved by an absolute majority of the members of the highest-ranking governing body of the party, depending on its level of registration.

**ARTICLE 74 - Internal elections tribunal**

In accordance with the principle of party self-regulation established in Article 98 of the Political Constitution, political parties must create an internal elections tribunal. This tribunal shall guarantee the democratic participation of the members of the party by its actions; to this end, it shall always act in accordance with the principles of impartiality, objectivity and transparency. It shall be administratively and operationally independent.

The regulations of this tribunal shall be approved by an absolute majority of the members of the highest-ranking governing body of the party, depending on its level of registration.

In addition to the functions assigned to it by the party bylaws, the party conference and the respective regulation, this organ shall also have the following functions:

- a) To organize, administer and supervise internal electoral activities of political parties.
- b) To interpret provisions relating to internal electoral activities in accordance with the precepts of the Constitution, this Act, the laws regulating the activities and party bylaws.

- c) To resolve conflicts arising during the process without any internal appeal being possible, except for motions for further particulars and clarification.

## **CHAPTER V MERGERS AND ALLIANCES**

### **SECTION I MERGERS**

#### **ARTICLE 75 - General requirements for mergers**

Registered political parties may merge with each other subject to the following rules:

- a) There must be a merger pact signed jointly by the representatives of the political parties involved. This pact must be approved by the highest-ranking governing body of each of them and should have the support of an absolute majority of all members.
- b) Once the merger has been agreed, the chairman of each of the higher executive committees of the parties involved therein shall jointly request the head of the Electoral Registry in writing to register the merger pact, which should be annexed thereto duly registered. This registration shall be granted subject to verification of the legal requirements.
- c) Mergers can be concluded between parties of different levels and scope, at the national level, in one or more provinces and in one or more cantons, provided that the requirements relating to the formation, registration and functioning of political parties are complied with according to the level in question.

#### **ARTICLE 76 - Merger of parties**

Any political party may merge with one or more others fully or by absorption; the effects in both cases are irreversible. The

foregoing shall not require compliance with the requirements stipulated in relation to membership subscriptions again.

### **ARTICLE 77 - Full merger**

The aim of a full merger is to create a new group, different from all the merged parties.

In the event of a merger between cantonal parties of the same canton, the cantonal conference of the new party shall be composed of the delegations appointed by each of the merged parties and approved by their respective cantonal conferences.

When cantonal parties merge to form a new party at the provincial level, the cantonal conferences of the new party constituted shall be those of each merged party, except where there are two or more parties from the same canton in which case the procedure stipulated in the foregoing paragraph shall be followed and the respective provincial conference shall be constituted. The same procedure shall be followed when the merger is between provincial parties of different provinces to form a new national party.

The formation of the new provincial or national conference, as the case may be, shall be carried out by delegations according to the provisions of this Act.

### **ARTICLE 78 - Merger by absorption**

One or more registered parties may agree to merge into another without this leading to a new group requiring registration. The receiving party shall be called the "survivor" and those merging into it shall be termed "absorbed".

### **ARTICLE 79 - Effects of merger by absorption**

With respect to applications for registration of a pact for merger by absorption, once any defects have been remedied, the

Electoral Registry shall order a single publication in *La Gaceta*, the official gazette, of an extract of the pact so that objections can be filed within the following ten working days. At the expiry of this deadline, the said Electoral Registry shall take the appropriate decision. If the application for registration is approved, deregistration of the absorbed political parties shall be ordered and only the registration of the surviving party shall be retained.

### **ARTICLE 80 - Effects of a full merger**

With respect to applications for registration of a full merger pact, the Electoral Registry shall take a decision immediately and where appropriate, shall order the deregistration of the merged parties and the commencement of registration formalities for the new party. The two - year deadline stipulated by Article 60 of this Act shall begin to run from this time.

### **ARTICLE 81 - Transfer of rights and duties of merged parties**

The rights and duties of merged parties shall be assumed by operations of law by the survivor party or the new party constituted, as the case may be, which includes the rights and duties deriving from state funding for political parties. From the time of the registration of the merger pact and for the period that the registration of the survivor or the new party remains in force, no other party with the distinguishing features of the absorbed or merged parties shall be registered.

### **ARTICLE 82 - Individuals affiliated to the new merged party**

Every citizen affiliated to any of the merged or absorbed parties as of the date of the registration of the pact shall be deemed to be individuals affiliated to the new party or the survivor party and they shall retain the rights derived from this status.

## **SECTION II ALLIANCES**

### **ARTICLE 83 - Partial or full alliances**

Political parties may form alliances for the sole purpose of presenting joint candidacies at any or all levels or electoral districts in which they participate in a specific election. Joint nomination is only possible in electoral districts where the allied parties are authorized to participate.

Allied parties shall maintain their identity and must satisfy all requirements necessary to remain in existence during the existence of the alliance.

### **ARTICLE 84 - Conditions and pact**

The terms and conditions of the alliance shall be agreed in writing with the signature of the representatives of the respective parties and must be approved by an absolute majority of all members of the respective supreme governing bodies. They must indicate the following:

- a)** The government platform common to the allied parties which may differ from the doctrinal platform declared in the deed of constitution of each of these parties.
- b)** The positions reserved for each party in the electoral lists of candidates for registration or alternatively, the democratic procedures to be used by the alliance to designate the joint candidacies, guaranteeing the participation of all the political forces comprising it.
- c)** The official name, symbol and slogan of the alliance.
- d)** The method for distributing among them the percentage of state funding to which the alliance is entitled. Alliances shall be entitled to receive state funding on the basis of the election result obtained for the joint candidacies they present, under the same terms and conditions stipulated by this Act for other political parties.

- e) Common rules for the receipt of private contributions in accordance with the provisions of this Act.
- f) Basic rules and the collegiate instance for resolution of internal conflicts, in accordance with the provisions stipulated for the organization of political parties.

Individuals elected in the same election for an alliance shall be deemed to be elected for the same party for all legal intents and purposes.

### **ARTICLE 85 - Marginal notes concerning alliances**

Once the alliance pact has been approved, it must be formally registered and submitted to the Electoral Registry and on rectification of defects noticed, a note shall be recorded in the margin of the registration of allied parties which shall be cancelled in the following situations:

- a) By unanimous agreement between the parties involved, approved by their supreme governing bodies, except where joint candidacies have already been registered.
- b) By withdrawal or dissolution at any time of the allied parties and the consequent remainder of only one party in the alliance. If several political parties remain allied after a withdrawal, the alliance shall not be dissolved and therefore the marginal note shall only be removed for the withdrawing party. Parties cannot withdraw voluntarily during the year prior to the elections.
- c) After the election process for which it was agreed.

The Electoral Registry shall not register joint candidacies once the marginal note to which this Article refers has been cancelled.

The submission of subscriptions or other requirements in addition to those stipulated in this section shall not be required for the registration of alliances.

## **CHAPTER VI FINANCIAL REGIME OF POLITICAL PARTIES**

### **SECTION I GENERAL PROVISIONS**

#### **ARTICLE 86 - Assets of political parties**

Assets of political parties shall comprise contributions from natural individuals, property and resources authorized by their bylaws and not prohibited by law and the funding from the State in the form and proportion stipulated by this Act and election legislation.

Similarly, these assets shall comprise registrable movable or immovable property acquired with party funds or that originating from contributions or donations.

#### **ARTICLE 87 - Applicable principles**

The provisions of this Act concerning the financial regimes of political parties shall be interpreted and applied in adherence to the principles of legality, transparency, disclosure, accountability, liability and self-determination of political parties.

#### **ARTICLE 88 - Books of account of political parties**

For the purpose of recording the operations carried out and expenses it incurs, each political party shall keep updated accounts and proof of expenses incurred, in accordance with the regulations issued by the TSE.

Political party treasurers must arrange for the endorsement of all the accounting control records of the group by the TSE. These books shall be made available and subject to examination when the TSE so requires.

They must be replaced immediately in the event of loss, under the terms of the regulation issued by the Tribunal to such effect.

Party treasurers shall be responsible for the safekeeping of accounting and financial documentation and must ensure they are duly updated.

Parties shall send quarterly reports of their financial statements to the TSE.

## **SECTION II STATE FUNDING**

### **ARTICLE 89 - State funding**

In accordance with Article 96 of the Political Constitution, the State shall contribute to cover the expenses incurred by political parties in elections for the presidency and vice-presidencies of the Republic and for representatives to the Legislative Assembly and to meet the needs of training and political organization in election and non-election periods.

### **ARTICLE 90 - Determination of the amount of state funding**

Twelve months prior to elections and within the limits established in Article 96 of the Political Constitution, the TSE shall fix the amount of the funding that the State must grant to political parties, using the gross domestic product at market prices in accordance with a certification issued by the Central Bank of Costa Rica as a basis for calculation.

As soon as elections for members of the Legislative Assembly are announced, the TSE shall order the distribution of state contribution among the parties entitled thereto by means of a duly reasoned resolution.

The Tribunal shall determine the distribution in accordance with the procedure described below:

- a) The individual cost of one vote shall be determined by dividing the total amount of the state funding by the sum of the valid votes obtained by all political parties



entitled to funding in the election for President and Vice Presidents of the Republic and representatives of the Legislative Assembly.

- b) The maximum each party can receive is the amount resulting from the multiplication of the individual cost of a vote by the sum of valid votes obtained in the election for President and Vice President of the Republic and members of the Legislative Assembly, or by what they obtained in either election if they only participated in one of them, deducting therefrom the amounts spent by way of guaranteed advance payments.

### **ARTICLE 91 - State funding for municipal election processes**

The State shall fund entitled political parties to the tune of zero point zero three percent (0.03%) of GDP to cover expenses incurred by their participation in municipal election processes, in accordance with the procedures stipulated in the Political Constitution and in this Act.

### **ARTICLE 92 - Classification of allowable expenses**

The following expenses can be justified by political parties to obtain state funding:

- a) Those incurred by their participation in election processes from the election call up to forty-five calendar days after the election was held. This period shall be extended if a second round of voting is held for the parties participating therein, up to forty-five calendar days after the second round has been held.
- b) Those intended for permanent activities of training and political organization.

### **ARTICLE 93 - Expenses for training and political organization**

The following expenses for training and political organization are allowable out of state funding:

- a) Political organization: This includes every administrative expense for promoting, strengthening and preparing political parties for their permanent participation in political and electoral processes.
- b) Training: This includes all activities enabling political parties to carry out political, technical or ideological-programmatic training of individuals, and the logistics and supplies required to execute them.
- c) Disclosure: This comprises activities by means of which political parties communicate their ideology, proposals, democratic participation, political culture, internal participation processes and national occurrences. It includes expenses incurred for designing, producing and disseminating all types of materials acting as communication tools.
- d) Censuses, voter registration, and research and opinion studies: These refer to activities aimed at the collection, compilation, assessment and analysis of information of interest to the party, preparation of party registers, carrying out of socio-economic and political research into situations of national or international relevance and carrying out of opinion polls.

The foregoing shall be without prejudice to the issue of regulations to regulate new situations falling under the concept of allowable expenses in this Act.

#### **ARTICLE 94 - Allowable expenses in the electoral process**

In addition to those listed in the foregoing article, expenses incurred in the electoral process which political parties can justify in order to obtain state funding are those destined for the following activities:

- a) Advertising, which is understood as the preparation and dissemination by political parties of their ideas, opinions, platforms and biographies of their candidates for popularly elected positions by the means they deem appropriate.

- b)** The production and distribution of any external symbol that the party uses in its activities.
- c)** Demonstrations, processions or other activities in public highways, plazas, parks or other public locations.
- d)** Activities of a public nature in private locations.
- e)** Any operational, technical, functional and administrative expense targeted at the preparation and execution of the activities required for participation in the electoral process.

### **ARTICLE 95 - Liquidation of expenses**

Expenses incurred by political parties shall be liquidated in the manner stipulated in this Act. To this end, a single liquidation shall be carried out for the expenses listed in paragraph a) of Article 92, "Classification of allowable expenses", and quarterly liquidations for expenses listed in paragraph b) of this Article.

### **ARTICLE 96 - Advance payments**

Political parties may receive up to fifteen percent (15%) of the total amount determined as state funding as an advance payment and on provision of sufficient liquid guarantees. Distribution of advance payments shall be carried out in equal parts for each political party in the following manner:

- a)** Political parties registered at national level that have endorsed candidacies for President and Vice President of the Republic and members of the Legislative Assembly shall be given eighty percent (80%) of the determined amount in equal sums, on provision of sufficient liquid guarantees.
- b)** Twenty percent (20%) of the total amount of advance payments shall be distributed in equal amounts among all parties solely at provincial level with candidacies endorsed for members of the Legislative Assembly, on provision of sufficient liquid guarantees.

Political parties that have received state funding by way of advance payments and which have not complied with the conditions stipulated in Article 96 of the Political Constitution and the stipulations in this Article must return the amounts received as advance payments. The same procedure shall apply for excess amounts, if the advanced amount is greater than the amount to which the political party is entitled.

### **ARTICLE 97 - Drawing advance payments for the electoral process**

Political parties shall be entitled to draw the amount to which they are allowed by way of guaranteed advance payments in accordance with the resolution to be issued in this respect by the TSE. Drawings in this respect shall be made with effect from the submission of candidacies for elections for the presidency and vice-presidencies of the Republic and in accordance with the means of distribution stipulated in the foregoing Article.

The money to be disbursed by way of advance payments shall be deposited in an account in the National Treasury in cash and not more than ten months prior to the elections. The Tribunal shall authorize, by means of a resolution, the transfer of the corresponding advance to each political party that has provided a guarantee.

### **ARTICLE 98 - Guarantees for receiving advance payments**

Any political party interested in obtaining advance funding to participate in the electoral process must first provide sufficient liquid guarantees to support the operation. These guarantees shall be provided solely by institutions of the National Banking System authorized to do so and, in addition, the documents and guarantees supporting the advance payment shall be endorsed in favor of the State and deposited with the TSE.

Political parties shall bear the costs of the provision of their guarantees; however, if the political party obtains the right to

state funding as a result of the election, these expenses may be deducted as expenses of the electoral process to be liquidated.

If a political party has received advance payments and does not participate in the electoral process for any reasons or does not obtain the right to state funding after having participated or this is insufficient to cover the amount obtained by way of advance payment, the TSE shall call in the provided guarantees on behalf of the State, with the aim of recovering public funds.

### **SECTION III**

#### **STATE FUNDING FOR MUNICIPAL ELECTION PROCESSES**

##### **ARTICLE 99 - Funding**

In accordance with the democratic principle and the principle of political plurality, the State shall contribute to the financing of political parties participating in municipal election processes that obtain at least four percent (4%) of validly cast votes in the respective canton for the election of mayors or Municipal council members, or elect at least one alderman.

##### **ARTICLE 100 - Distribution of funding in municipal election processes**

The Tribunal shall determine the distribution of the funding in accordance with the procedure described below:

- a)** The individual cost of a vote shall be determined by dividing the total amount of state funding for municipal election processes by the sum of valid votes obtained by all political parties entitled to funding in the municipal election.
- b)** The maximum each party can receive is the amount obtained by multiplying the individual cost of a vote by the sum of the valid votes it obtained in the municipal election.

**ARTICLE 101 - Allowable expenses**

Expenses that political parties can justify to obtain state funding shall be those incurred by their participation in municipal electoral process from the election call up to forty-five calendar days after polling day.

**ARTICLE 102 - Audit and liquidation of expenses**

In order to receive state funding, political parties must audit and liquidate their expenses in accordance with the provisions of this Act.

The deadline for the submission of liquidations of expenses incurred by participation in municipal electoral processes shall be forty-five working days from the declaration of the results of elections for all municipal authorities.

**SECTION IV****AUDITING AND LIQUIDATION****ARTICLE 103 - Auditing the use of state funding**

The TSE is responsible for assessing the liquidations submitted to it and ordering the payment of political party expenses included in state funding.

For the assessment and subsequent payment of recognized expenses by means of audits of the liquidations submitted by political parties, the TSE shall be empowered to systematize procedures that best protect the parameters of the expenses that are the object of liquidation. In this respect, it can randomly review items or specific headings of the expenses included in the liquidations to verify them.

In their respective liquidations, political parties shall guarantee that the amounts and intended activities relating to expenses incurred under the heading of training during the non-election

period are being destined for training and promotion of both genders under conditions of effective equality in accordance with paragraph p) of Article 52 of this Act. To this end, the respective liquidation must be accompanied by a certification issued by a Certified Public Accountant certifying compliance with this rule. Failure to provide this certification shall be assumed by the TSE to entail non-compliance with this rule by the respective political party and it shall not authorize the payment of any amount under this heading.

### **ARTICLE 104 - Liquidations**

Prior to the authorization of the transfer of state funding to political parties they must submit liquidations in the form and within the deadline indicated in this Act and in the respective regulations.

Liquidations duly endorsed by a Certified Public Accountant in their capacity as accountable professionals and officials empowered to authenticate documents, are the means by which political parties entitled to state funding provide the TSE with evidence of the expenses they have incurred.

### **ARTICLE 105 - Register of professional auditors**

The Office of the Comptroller General of the Republic shall register Certified Public Accountants who wish to provide professional services to political parties. Similarly, it shall regulate the requirements for registration in this register.

### **ARTICLE 106 - Liquidation documents**

Every liquidation submitted to the TSE Political Financing Department must contain the following documents:

- a) Certification of the expenses of the political party issued by a Certified Public Accountant registered with the Office of the Comptroller General of the Republic commissioned by the party for this purpose and a report on internal control containing the listing of the auditor of

discovered deficiencies to be improved on, after having verified, checked and determined that all the expenses reimbursable with state funding are in line with the accounting and legal parameters required.

- b) All proofs of expenses, invoices, contracts and other documents supporting the liquidation submitted.

Together with this documentation, political parties must submit to the TSE the corresponding reports issued by the Certified Public Accountant regarding the results of the investigation they carried out to certify each of the liquidations of expenses.

These reports must contain, at a minimum, details of the expenses accounts indicated in the respective accounting manual, which should be recorded in the liquidation, cite non-compliance with applicable law and noting any internal control deficiencies found, selective testing carried out (in relation to checks, documentary evidence or proof of expenses, contracts, accounting records and register of suppliers), details of transactions carried out with bonds, contracting procedures used, comments on any irregularity or aspect that the public accountant deems relevant, conclusions and recommendations.

### **ARTICLE 107 - Auditing of expenses**

Within sixty working days of the announcement of the results of elections for members of the Legislative Assembly, each party entitled to receive state funding must collect their entitlements from the TSE, by means of a liquidation of campaign expenses submitted in accordance with the provisions of this Act.

After receiving the liquidation, the Tribunal shall issue a decision determining the amount to be transferred to the political party within a maximum deadline of fifteen working days. However, if any circumstances raise a presumption on the part of the Tribunal that all or part of the liquidated expenses are irregular, it may order the review of the documents supporting the corresponding liquidation. In any event, the Tribunal can authorize the payment of items that are not subject to review.



Prior to payment, political parties must provide the details of the bank account into which the state funding shall be deposited.

Liquidations of expenses for training and political organization during non-election periods should be submitted within fifteen working days of the end of the corresponding quarter. The TSE shall issue the decision determining the amount to be transferred, within a maximum of fifteen working days.

Only appeals for reconsideration may be filed against the decision of the Tribunal in this respect, and these appeals must be settled within a maximum of five working days.

If there is any untransferred surplus from the total amount submitted by a political party by way of liquidation of election expenses, this shall be added to the reserve stipulated for financing the ordinary and permanent expenses of this party under the heads of organization and training.

In any case, if there is a surplus, the amount to be added may not exceed the amount resulting from the percentage previously determined for the party for the heads of organization and training. The said surplus shall be liquidated in accordance with the rules stipulated for the liquidation of the heads to which it is added.

The National Treasury shall transfer the state funds once the liquidations of these expenses have been duly submitted and approved within the deadline stipulated for each liquidation and in accordance with the procedures established in this Act.

## **SECTION V STATE FUNDING BONDS**

### **ARTICLE 108 - Issue of bonds**

The Executive Branch may issue bonds for the amount that the State shall grant to political parties to pay their expenses, in accordance with Article 96 of the Political Constitution and

this no later than the date of the calling of national elections. To this end, it shall include the respective head for redemption in the ordinary budget of the Republic for the year preceding the elections in accordance with the appropriate and prior estimation of the TSE.

### **ARTICLE 109 - Bonds**

The bonds shall be known as political party financial assistance bonds and shall indicate the year of the elections to which they relate, the interest rate they shall yield and the date of issue.

The bonds shall yield an interest equivalent to the basic passive rate calculated by the Central Bank of Costa Rica, plus one percent (1%); and shall have a two-year maturity date. This rate shall be adjustable every three months.

The political party financial assistance bonds shall be non-seizable, have the full guarantee of the State and exempt from tax.

### **ARTICLE 110 - Transfer of state funding and interests on bonds**

Within eight days from the day the Ministry of Finance receives the notification from the TSE accepting the expenses liquidated by each of the parties, the National Treasury shall transfer to the political parties their entitlements by way of liquidation of state funding. The parties shall be paid interests from the determination of the state funding to which each of them is entitled. The interests on political party funding bonds shall be paid quarterly. A fixed quarterly quota shall be reserved for the redemption and interests.

### **ARTICLE 111 - Inclusion in the ordinary budget of the Republic**

Each year, the amount required for bond servicing and interests on the political party funding bonds shall be included in the ordinary budget of the Republic.

**ARTICLE 112 - Trading in bonds in the National Banking System**

Banks of the National Banking System and their branches can purchase, sell and receive political party funding bonds in payment for all types of obligations and retain them as investments.

**ARTICLE 113 - Payments on bonds**

The National Treasury shall be responsible for the payments on bonds and coupons.

**ARTICLE 114 - Receipt of bonds as payments of taxes**

The State shall accept bonds at their face value of political party financial assistance and matured coupons at any time as payments of all kinds of national taxes.

**SECTION VI  
ASSIGNMENT OF RIGHTS TO STATE FUNDING****ARTICLE 115 - Assignment of the right to state funding**

Subject to the restrictions stipulated in this Article and in this Act, political parties can, through their higher executive committees, completely or partly assign the amounts of state funding determined in Article 96 of the Political Constitution to which they are entitled.

All assignments must be effected by means of certificates of one or more securities exchangeable in the National Treasury for the bonds issued by the State to fund political parties. The aforementioned certificates shall indicate the total amount of the issue, which shall be notified to the Political Parties Funding Department. When there are several issues, each one shall include the appropriate serial number, its amount and that of previous ones. With respect to payment, the first issue shall take precedence over the second and so on until the last issue. The notification to the Political Parties Financing Department shall

not imply any liability whatsoever for the State if the assigned right is wholly or partially non-existent.

The Department shall make information about reported issues available to the public.

Given that they are redeemable financial expenses, political parties shall be entitled to liquidate the discounts that they decide to apply for the placement on the market of their certificates issued as assignments of eventual rights with discounts being the difference between the nominal value of the certificate and the price at which it shall be sold. The maximum discount rate recognized by the State shall be up to fifteen percent (15%).

#### **ARTICLE 116 - Prohibition on acquiring certificates of assignment**

The certificates issued by political parties as assignments of eventual rights cannot be acquired by foreigners or legal entities not domiciled in Costa Rica and nor can the aforementioned individuals carry out any other financial operations associated with political parties. Political parties are prohibited from accepting or receiving any contribution in this respect from these same individuals directly or indirectly.

#### **ARTICLE 117 - Liquidation of bonds**

If the contribution that the State should transfer to each party is not sufficient to cover the whole of the first issue of certificates of assignment, there shall be an exchange for State bonds with the corresponding proportional reduction. The same rule shall apply in a staggered fashion to subsequent issues, if the first issue is wholly covered and there is a surplus.

#### **ARTICLE 118 - Disclosure of transfers**

Transactions in the national banking system that are backed with the certificates of assignment stipulated here must be reported to the TSE and all their terms and conditions shall be made public.

**ARTICLE 119 - Issue of certificates of assignment**

Political parties shall be obliged to cover the expenses allowed by law in cash, in certificates of their issues or by delivery of credit instruments acquired in exchange for the delivery of bonds.

Parties shall deliver certificates of assignment of their issues for the value of reimbursable contributions; for non-reimbursable contributions, they shall issue receipts or documents expressly indicating this fact.

Each political party must agree, regulate and order the issue of bonds in accordance with the stipulations of this Act.

**SECTION VII  
PRIVATE FUNDING****ARTICLE 120 - Private funding of parties**

Private funding of political parties including the factions and officially registered primary election candidacies within them shall be subject to the principle of disclosure and shall be regulated by the provisions herein.

The term private contribution or funding shall be understood to mean any assistance that a person renders directly in favor of a political party in cash, financial securities or in registrable property.

**ARTICLE 121 - Audits of private funding**

Political parties must include private contributions in their accounts. The TSE can order audits of the finances of political parties for the purpose of verifying compliance with the regulations governing the matter and these audits can be carried out through the department specializing in this issue or by professionals or firms contracted for this purpose.

Political parties shall comply with technical accounting rules and the regulations that the TSE shall issue and shall provide any report or document required from them.

To this end, party treasurers must provide mandatory cooperation and shall be liable for the accuracy and veracity of the data they provide.

### **ARTICLE 122 - Single bank account for private funding**

Political parties may use the banking services they deem appropriate; however funds originating from private donations, contributions or support received by political parties must be deposited in a single current account dedicated exclusively to these funds in any bank of the national banking system, and this account may be subdivided into sub-accounts. The opening and closing of the respective current account must be notified formally to the Tribunal by political party treasurers within a period of eight working days subsequent to the corresponding act.

Banks of the national banking system shall take the required control measures to ensure that no anonymous deposits are credited to these current accounts. If banking institutions notice a suspicious deposit, they must immediately notify the TSE which can order the corresponding amount frozen until appropriate action is taken.

When opening the current account, the supreme executive committee must authorize the respective bank to furnish information concerning bank statements that the TSE may request when it deems it appropriate.

### **ARTICLE 123 - Requirements concerning private donations**

Private contributions can only be credited to political parties or duly officially registered factions, primary election candidacies or candidacies.

Every contribution must be individualized and recorded at the time of its receipt by means of a proof of deposit issued by the bank or official receipt issued by the political party and signed by the donor or contributor in this case. Such donations or contributions cannot be received if anonymous. Deposits can only be made personally and individually so that the person carrying out the transaction directly shall prove themselves as depositor, except in cases where the political party accountholder reliably prove the identity of the contributors.

All fundraising activities by the party or any of the factions officially accredited by it must be regulated by the political party, guaranteeing the principle of transparency and disclosure.

The treasurer must keep a record of the fundraising activities of the party including those of factions and movements. The treasurer shall send reports to the TSE when it so requests.

#### **ARTICLE 124 - Participation of international organizations in political party training processes**

International organizations dedicated to the promotion of culture, political participation and the defense of democratic value may only collaborate in political party training processes provided that they respect the constitutional order and national sovereignty. These organizations must be accredited by the TSE.

#### **ARTICLE 125 - Financing of candidates or primary election candidates**

Private contributions cannot be given directly to candidates or primary election candidates officially registered by political parties for any popularly elected positions. All contributions must be channeled through political party treasurers. In this respect, officially registered primary election candidates shall be understood to mean those duly registered with the respective party during its internal election processes. Similarly, official registered candidacies shall be those so recognized in accordance with political party bylaws.

If the specific purpose of these contributions is to support any officially registered candidate or primary election candidate, the treasurer shall order the immediate transfer of such funds, but must include them in their reports. These contributions shall be subject to the same restrictions, controls and sanctions stipulated in this Act in relation to private contributions or donations to parties.

### **ARTICLE 126 - Prohibition of parallel management of private contributions**

The responsibility for the management of private funding shall lie with political party treasurers or failing them, the person authorized by the supreme executive committee to undertake fundraising activities. No person or group of individuals may undertake the management of funds in this respect in the interests of a political party without the due authorization of the aforementioned individuals.

### **ARTICLE 127 - Control of financing for primary election candidacies**

Every primary election candidacy duly registered for popularly elected positions must appoint a person responsible to the party treasurer for finance. The treasurer can authorize or reject the proposed appointment for justifiable reasons. Any person not authorized by the treasurer cannot undertake fundraising activities.

The party treasurer shall create a sub-account at the request of each person responsible for finance. All sub-accounts created shall be unified by the treasurer once the internal process is finalized.

Contributions, donations or any other type of liquid funding for primary election candidacies must be deposited into the single account of the party and the sub-accounts created by the treasurer can only receive deposits from the single account of the party.



The Tribunal must be informed of the full names, ID numbers and domiciles of the individuals authorized to undertake movements in the single account of the party.

Each person responsible for finance must submit a report concerning the expenses incurred during the internal election process to the party.

### **ARTICLE 128 - Prohibition on contributions from foreigners and legal individuals**

Foreigners and legal individuals of any kind and nationality are forbidden to make contributions, donations or provide support directly, indirectly or covertly, in cash or in kind, to defray the expenses of political parties. Foreign entities, whether natural or legal individuals, are also prohibited from granting loans, acquiring securities or undertaking any transaction involving benefit of any kind for political parties.

Members of the higher executive committee shall be responsible for ensuring compliance with this rule.

### **ARTICLE 129 - Prohibition on contributions deposited from abroad**

The deposit and receipt of contributions, donations or any other type of support through financial institutions located outside national territory is prohibited. If a political party receives a deposit of this kind, it cannot utilize these irregular funds and must immediately report this situation to the TSE which shall resolve the matter appropriately.

### **ARTICLE 130 - Reporting of in-kind contributions**

Party treasurers must report to the Tribunal all in-kind contributions in excess of the sum of two minimum wages at the time of the valuation of the property, in accordance with the definition in Article 2 of Act No. 7337 of May 5, 1993.

**ARTICLE 131 - Valuation and recording of in-kind donations**

In-kind contributions shall be valued by mutual agreement between the contributor and the receiving political party. The corresponding receipt shall contain a detailed description of the property or service donated in addition to the agreed valuation.

The TSE shall be empowered to review and adjust valuations of in-kind contributions.

Volunteer work carried out on an ad honorem basis by any person in support of organization tasks or work related to electoral propaganda of their preferred party shall not require valuation.

**ARTICLE 132 - Reporting obligation**

Political party treasurers shall be obliged to report the donations, contributions or support they receive to the TSE quarterly. However, these reports shall be sent monthly during the period between the election call and polling day. In any case, when a political party does not receive any contributions within the indicated periods, it shall be obliged to report this fact. All accounting information of political parties can be accessed by the public through the TSE.

**ARTICLE 133 - Reporting requirements**

Reports concerning contributions, donations or support that political party treasurers must submit to the TSE shall include a detailed list indicating the full name and ID card number of each donor, the amount of the contribution or its valuation if it was in kind and if the contribution was made for the activities of the political group or if it was contributed for the political activities of a candidate or primary election candidate endorsed by the political party for any popularly elected position.

Party treasurers must provide certified copies of the subsidiary bank account containing the deposit number, bank statements and financial statements for the period issued by a Certified

Public Accountant, as annexes to the aforementioned quarterly reports. This must be done within the same deadlines and with the same regularity.

#### **ARTICLE 134 - Notification of non-compliance**

The TSE shall notify political parties that do not submit reports on time or have submitted incomplete or unclear information to comply with this obligation within ten working days of the notification of this notification.

#### **ARTICLE 135 - Donations and contribution from Costa Rican nationals**

Costa Rican nationals can make contributions, donations or provide any other type of support in cash or in kind to political parties without any restrictions on their amounts.

Political party treasurers must order the publication in a national newspaper in October of every year of an audited financial statement including the list of its contributors or donors and expressly indicating their names, ID card numbers and the amounts contributed by each one of them during the year.

### **CHAPTER VII POLITICAL ADVERTISING AND INFORMATION**

#### **ARTICLE 136 - Freedom to disseminate advertising**

Political parties are entitled to disseminate all kinds of political and election advertising in collective communication media from the election call and up until three days prior to the polling day inclusive. They may give out political information, press releases, hold meetings and activities in private locations and premises, without any authorization being required.

Any form of advertising using the religious beliefs of people or invoking religious motives to incite the citizens in general

or in particular to adhere to or abandon specific parties or candidacies is prohibited.

The projection or placement of election advertising in public highways or places and on street furniture is prohibited.

All political parties shall refrain from disseminating political advertising in the mass media from the 16<sup>th</sup> of December to the 1<sup>st</sup> of January immediately prior to polling day, both days inclusive. During this period, only candidates for President of the Republic may publish three Christmas messages, in accordance with the regulations issued in this respect by the TSE. However, this may not be done on the three days immediately prior to the election or on polling day.

Officially registered primary election candidates may disseminate their ideas or thoughts through the communication media that they deem appropriate.

### **ARTICLE 137 - Activities in public places**

Demonstrations, processions or other activities in public highways, plazas, parks or other public sites must have the permission of the corresponding authorities and, with effect from the election call, that of the TSE also and must be in accordance with the following stipulations:

- a)** Applications for permits must be submitted in writing and must comply with the other formalities regulated by the Tribunal.
- b)** The department or official designated by the TSE shall be responsible for issuing permits for meetings and shall issue permits with strict rotation of registered parties and in the order they are requested. To this end, they shall determine the order in which political parties may meet in a locality.

- c) The respective department or official shall record in the application time and date of its submission. They shall exhibit a copy of issued permits in their office and a written plan for the successive occupation of the locations. Another perfectly legible copy of the same plan shall be delivered to the chairman of the local executive committee of each party.
- d) Political parties may not hold meetings or rallies in public areas, in the same electoral district and on the same day. Nor can they be held from the 16th of December to the 1st of January immediately prior to the polling date, both dates inclusive, or in the six days immediately prior to the polling day inclusive.
- e) Similarly, meetings cannot be held in bridges, public highway intersections or in front of places of religious worship, fire stations or Red Cross offices or at less than two hundred meters from hospitals or police stations or educational centers whose normal operations may be adversely affected.
- f) The authorities shall remove any person or group disrupting or attempting to disrupt a political meeting or demonstration. Clubs of other parties located near to the site, where another political party is holding its public demonstrations or meetings shall remain closed for twenty-four hours.
- g) Physical places belonging to the State and to municipal governments of the country may be provided to political parties to hold their activities and assemblies at any time, provided that prior notification is given to the TSE and that the political parties guarantee compliance with regulations governing safety, health, public order, propriety and respect for public morals.

### **ARTICLE 138 - Surveys and opinion polls**

Institutions, universities, any public or private body and organizations dedicated to preparing politico-electoral surveys and opinion polls must register with the TSE within fifteen days of the election call, identifying the organization and the

accountable professionals, and complying with the other requirements determined by the Tribunal.

The Tribunal shall publish in a national newspaper the names of the organizations, universities, institutions and any public or private body that are authorized and registered with the Tribunal to carry out politico-electoral surveys and opinion polls.

The total or partial dissemination or publication of opinion polls and surveys relating to electoral processes by any means during the three days immediately prior to the polling day and on polling day itself, and those carried out by unregistered organizations during the election campaign period is prohibited.

### **ARTICLE 139 - Rules for election advertising agencies**

Only agencies registered by their representatives for this purpose with the TSE shall be authorized to provide election advertising services. Once registered, they shall be obliged to provide their services in accordance with the following stipulations:

- a) They must indicate their fees, company name, position of the person responsible for management and the location for receiving notifications in the application for registration and in the corresponding record with the Tribunal.
- b) Registered agencies and communication media must guarantee equality of conditions and treatment to all political parties participating in the electoral competition.

### **ARTICLE 140 - Period for custody and delivery of documents**

Institutions, universities, any public or private body and organizations dedicated to carrying out politico-electoral surveys and opinion polls registered in accordance with the foregoing Article shall retain the supporting documents for surveys and opinion polls published during the election campaign period in their custody and at the disposal of the TSE from the day of their publication and up to the day after the official declaration of the

results of the elections for members of the Legislative Assembly or mayors, as appropriate.

Once the TSE has ruled a complaint admissible, original documents or copies thereof certified by a notary public must be submitted not later than three days after the respective request is made. The Tribunal shall determine by means of regulations the documents that it shall request depending on the complaint submitted.

### **ARTICLE 141 - Meetings in clubs or enclosed spaces**

Duly registered political parties can hold meetings in their clubs or on their premises but shall refrain from disseminating election propaganda or speeches outside the premises at the same time, at their doors or surroundings, whether aloud or using loudspeakers, radios or other instruments.

Licensing of premises for the use of political parties shall be mandatory and must be requested in writing from the cantonal police station whose decision can be appealed to the TSE. Registrations of clubs less than one hundred meters away from another registered club shall not be approved.

Within the two months prior to the elections, only parties with registered candidacies can request the registration of new premises.

Operation of premises in a manner contrary to law shall oblige the corresponding police authority to close them immediately.

### **ARTICLE 142 - Information concerning government administration**

Institutions of the Executive Branch, the decentralized administration and state-owned enterprises, city halls and municipal councils are prohibited from disseminating advertising information relating to public affairs carried out by any communication media from the day following the calling of national elections and up until the polling day itself. Excepted

from this prohibition is technical or scientific information that is indispensable and urgent because it refers to aspects related to the provision of essential public services or national emergencies. Any publications contrary to the provisions of this Act shall render the responsible officials liable for the crime of disobedience and political belligerence by an order of the TSE.

## **TITLE IV ELECTORAL PROCESS**

### **CHAPTER I PREPARATORY ACTS**

#### **ARTICLE 143 - Administrative and electoral territorial division**

The administrative territorial division shall apply to the electoral process. To this end, the Executive Branch of government must prepare and publish it at least twelve months prior to the day announced for the election of the President and Vice Presidents of the Republic. It must list provinces, cantons, districts, villages or hamlets in detail, employing the order of the laws and decrees that created them. It must also state the population of each one, in accordance with census data and the most recent calculations of the National Statistics and Census Institute (INEC).

The TSE shall be empowered to divide an administrative district into two or more electoral districts thus making it more convenient for voters to cast their votes. However, it cannot use this power in the eight months prior to the elections.

#### **ARTICLE 144 - Voters**

Costa Rican citizens aged eighteen years old who are registered in the electoral roll shall be deemed to be voters, excepting the following:

- a) Individuals declared judicially interdicted.
- b) Individuals who have had the exercise of their political rights suspended by a final judgment.



Naturalized Costa Rican citizens can only vote twelve months after having obtained the respective card.

### **ARTICLE 145 - Duties and functions of voters**

Voters have the following duties and functions:

- a)** Attend polling stations and exercise their right to vote.
- b)** To elect and be elected.
- c)** To observe the established laws and election regulations.
- d)** To cooperate with the TSE and political parties to ensure that elections are held and concluded normally.

### **ARTICLE 146 - Disqualification of public employees and officials**

Public employees are prohibited from engaging in politico-electoral work or discussions during working hours and from using their positions to benefit a political party. The direct supervisors of these employees shall be responsible for monitoring compliance with this provision.

The President and Vice Presidents of the Republic, ministers and deputy ministers, active members of the foreign service, the comptroller general or assistant comptroller general of the Republic, ombudsmen, the Attorney-General and Assistant Attorney-General, executive chairmen or members of management boards, executive directors, managers and assistant managers of autonomous institutions and any state public body, senior ministry officials, members of the police forces, agents of the Judicial Investigation Bureau (OIJ, for its Spanish acronym), justices and any employees of the TSE, judges and officials of the judiciary who administer justice and who are disqualified by virtue of other laws, cannot participate in political party activities, attend gatherings or meetings of a political nature, use the authority or influence of their positions for the benefit of political parties, place symbols on their residences or vehicles or exhibit other symbols of party affiliation.

In election matters, the officials included in the second paragraph of this Article may only exercise their right to vote on polling day in the manner and under the conditions stipulated in this Act.

The TSE can order the dismissal of the aforementioned officials and disqualify them from exercising public office for a period of two to four years when their acts contravene the prohibitions stipulated in this Article.

### **ARTICLE 147 - Calling of elections**

The TSE shall call elections four months prior to the stipulated polling day.

The TSE shall call extraordinary partial elections to fill vacancies in dissolved municipalities and in the situation stipulated in Article 19 of the Municipal Law.

### **ARTICLE 148 - Registration of candidacies**

All official lists of candidates for popular elections and official list of candidates for positions in the administrative and political representation organs shall be prepared in line with the principles of party and gender alternation. The first position on each electoral list of candidates for popular election by province, canton and district shall be determined by the political parties.

In order to be properly registered in the Electoral Registry, candidacies can only be submitted from the time elections are called up until three months and fifteen calendar days prior to the election. Any of the members of the highest body of the party must submit the application in the special forms that the aforementioned Registry shall produce for this purpose.

Candidates cannot be nominated for the position of Legislative Assembly representative in different provinces simultaneously. If this occurs, the Electoral Registry, taking into consideration the wishes of the respective candidate, shall register one of the

nominations and delete the remainder. If such candidates do not express their wishes three days after being sent a notification in this respect by the Electoral Registry, the latter shall select one of the nominations at its discretion.

The Electoral Registry shall not register official lists of candidates for popular elections by province, canton and district of political parties that do not comply with the principle of parity and gender alternation.

### **ARTICLE 149 - Election campaigns**

An election campaign is the phase of the electoral process covering the period from the announcement of the elections until polling day.

### **ARTICLE 150 - Polling day**

Elections for President, Vice Presidents and members of the Legislative Assembly must be held on the first Sunday in February of the year in which these positions must be renewed.

Municipal elections for council members, regular representatives (*síndicos*), mayors and intendants, members of district municipal councils and their respective substitutes shall be held on the first Sunday in February two years after the election for President, Vice Presidents and members of the Legislative Assembly.

All these positions shall be renewed every four years.

With respect to the calling of elections for a constituent assembly, the TSE shall indicate the polling date if this is not stipulated in the legislation calling the election.

### **ARTICLE 151 - Number of representatives**

The number of representatives to be elected to a constituent assembly, the Legislative Assembly and municipal and district councils shall be stipulated in the announcement of the

elections, which shall fix this number in strict compliance with the provisions of the Political Constitution, the Constituent Assembly Convocation Act and the Municipal Law, as appropriate.

Political parties registered at the national or provincial level shall nominate as many candidates for Legislative Assembly representative as can be elected for the respective province and an extra twenty-five percent (25%) more. This excess shall comprise at least two candidates and the TSE shall fix this number for each province in the election call.

### **ARTICLE 152 - Provisional lists of voters**

Six months prior to an election, the Civil Registry shall prepare the provisional lists of voters. It must send them to the police authority of each administrative district as soon as possible. Municipal and police authorities must cooperate to immediately place them in visible locations where they shall remain exhibited for public consultation for four months and these authorities shall also be responsible for their custody.

The Civil Registry shall furnish political parties with a copy of the updated register through the electronic medium provided for copying it when requested by any member of its higher executive committee or representative.

The foregoing shall be without prejudice to the use of other mechanisms guaranteeing publicity.

### **ARTICLE 153 - Preparation of the final lists of voters**

Two calendar months and fifteen days prior to an election, the Civil Register shall commence the preparation of the definitive general list of voters or electoral roll, taking into account its own rulings, decisions and general dispositions and those of the TSE.

**ARTICLE 154 - Final lists of voters**

One month prior to an election, the Civil Registry must have printed final lists of voters in alphabetical order, whose sheets must be marked with the distinctive symbol of this department.

The TSE shall distribute the respective register to each cantonal board, in printed form and divided into electoral districts, at least fifteen calendar days prior to the elections and the latter shall place it securely in a visible location so that voters can check their polling stations.

Furthermore, when so requested by political parties with registered candidacies, the Civil Registry must furnish a copy of the final electoral roll in printed form and through any other electronic medium used to reproduce it. If a political party requests a specific electronic medium, it must provide the respective support to the Civil Registry.

A printed copy of the respective register must accompany the materials distributed to the polling stations and they shall place it in a visible location for every voter to locate their names.

In compliance with the principle of disclosure, the Civil Registry can use any other means enabling it to publicize the electoral roll as much as possible.

**ARTICLE 155 - Allocation of voters**

The TSE shall determine the maximum number of voters for each polling station so that there shall be sufficient time for all citizens to vote.

The Civil Registry shall be responsible for determining the number of polling stations in each district and distributing the voters that must vote in each one, ensuring that citizens shall not have to travel long distances to cast their votes and taking conditions and means of communication into account. Voters of each

district or political parties may suggest any modifications they deem necessary to the Civil Registry.

### **ARTICLE 156 - Electoral Register**

The lists of voters is the electoral document where the opening of the polls, incidents and the closing of polls must be recorded and it must contain, at a minimum, the list of voters, their photographs and the numbers of the polling stations to which they are assigned.

The Civil Registry shall be responsible for printing this register with the specific characteristics stipulated by law and must guarantee that it is fully and appropriately prepared for distribution to each polling station.

The lists of voters shall be the full proof of the result of an election, as long as it does not appear to be contradicted by another document of equivalent value or is not proven to be false. In the event of loss or inconsistency, the Tribunal shall use the corresponding election documentation for each election as a guide.

### **ARTICLE 157 - Recording of votes in the lists of voters**

Once a vote has been cast, the chairman of the polling station committee or the person performing this function shall enter the comment: "Voted" in their own handwriting and on the right margin of the lists of voters corresponding to the line where the name of the voter appears.

However, the Tribunal can use electronic means of registration and verification of voters and voting if it determines them to be reliable and secure. It can then dispense with the use of the document to which this Article refers and the procedures inherent in its use.

**ARTICLE 158 - Dispatch of election materials and documentation**

At least fifteen days prior to the date set for the elections, the Electoral Registry must have dispatched election materials and documentation to the cantonal boards which shall immediately distribute them among the polling stations in such a way that they shall be in their custody at least eight days prior to the elections.

The TSE can order election materials and documentation dispatched directly to polling stations if it deems this advisable.

For each election, the TSE shall specify what it deems to be election materials and documentation and shall adopt measures guaranteeing their security.

**ARTICLE 159 - Method of dispatching materials**

The Electoral Registry shall notify the members of polling station committees of the dispatch of election materials and documentation in advance so they can gather to receive them. If the committee does not meet at the stipulated time, the material shall be delivered to the chairman or, failing this, to any of the members.

**ARTICLE 160 - Obligation to acknowledge receipt**

Cantonal boards and polling station committees shall immediately notify the Electoral Registry of the receipt of the election documentation and materials.

**ARTICLE 161 - Sitting for the opening of bags**

Polling station committees shall immediately hold a public sitting to open the bags, having notified the chairman of the cantonal executive committee of each registered political party for the purpose of accrediting the representative who shall witness this act.

**ARTICLE 162 - Review of bags**

Once the bags have been opened, an entry shall be made stating whether the election materials and documentation are complete or not. To this end, an instrument shall be prepared and signed by the individuals present which they shall immediately dispatch to the Tribunal or the election adviser of the respective canton.

**ARTICLE 163 - Continuity of public transport services**

During election campaigns and on polling day, public transport concessionaires and license holders operating buses with assigned routes, must provide services as usual. The suspension or deterioration of service provision shall be sanctioned in accordance with the stipulations of this Act.

**CHAPTER II  
VOTING****ARTICLE 164 - Polling stations**

Polling stations shall be arranged in such a way that the polling station committee can be located in one section and the polling booths can be set up in another so as to guarantee voting secrecy. In each case, the TSE shall determine how many polling booths can be set up in each polling station.

The setting up of polling stations on upper floors or inaccessible locations and the presence of physical or human obstacles in the ramps and means of access for disabled individuals in the premises and any obstacle that impedes the free and independent entry of individuals with reduced mobility is absolutely prohibited.

**ARTICLE 165 - Placement of ballot boxes**

Ballot boxes shall be placed in front of the polling station committee worktable so that they shall always be under the authority and supervision of the committee.



**ARTICLE 166 - Polling hours**

Voting must be carried out uninterrupted for the period between six o'clock in the morning and six o'clock in the evening on polling day and only in premises stipulated for this purpose.

If voting does not commence at six o'clock in the morning, it may commence later provided that it does not start after twelve noon, without prejudice to the sanctions stipulated for those responsible for this delay.

**ARTICLE 167 - Reporting time**

Members of polling station committees must report at their respective polling stations at five thirty in the morning so voting can start at six o'clock.

**ARTICLE 168 - Commencement of voting**

Prior to the commencement of voting, present members of the polling station committee shall review the election materials and documents, recording any incidents in the lists of voters. The time the polls open, the names of the committee members present, the name of the chairman or the person performing that function and all other data concerning the official commencement of the voting process shall be immediately recorded therein. Next, voting shall begin if it is already time for the polls to open.

**ARTICLE 169 - Methods of casting votes**

Ballots shall be cast in the form and with the media stipulated for each election by the TSE in the regulations it shall issue at least six months beforehand. However, the Tribunal can use electronic voting methods if it determines them to be reliable and secure. It can then dispense with ballot papers and the procedure inherent in their use, although a printed register for auditing electronic voting must always be guaranteed.

The aforementioned regulations cannot be modified in any way within the six months prior to the election. The preparation and final draft of these regulations and their modifications and updates must be notified to political parties prior to their publication.

### **ARTICLE 170 - Prohibition on interfering with voters in polling stations**

Interfering with voters in polling stations is prohibited, except for general instructions concerning the way to vote that the chairman may give them when requested or when necessary.

The Electoral Registry shall provide all the facilities required to enable parties enlighten voters on how to vote in a timely fashion.

### **ARTICLE 171 - Prohibition on gathering around polling stations**

Gathering within a radius of fifty meters around polling station premises is prohibited. However, only individuals waiting their turn to enter the polling station and cast their votes may gather in line and in order of arrival. Priority shall be given to pregnant women and elderly individuals. Individuals not accredited to the committees for the performance of any function derived from this Act cannot remain within the polling station or the building comprising it for any reason.

### **ARTICLE 172 - Prohibition on entering polling booths with weapons**

No one at all can enter a polling booth armed. Individuals doing so can be removed from the premises by the authorities.

Policemen, OIJ agents and other security personnel cannot appear to vote while armed.

### **ARTICLE 173 - Prohibition on interrupting voting**

Voting cannot be interrupted for any reason whatsoever before polls close and nor can the location of voting be changed.

Furthermore, election materials or documents cannot be made available in any way.

### **ARTICLE 174 - Actions requesting declaration of invalidity**

Actions requesting declarations of invalidity and reporting violations of electoral law are public and do not require provision of a guarantee.

### **ARTICLE 175 - Absence of any members of polling station committees**

If any members of the polling station committees are absent during polling, they shall be replaced by their substitutes. If the chairman and his substitute are absent, the other members present shall appoint an ad hoc chairman by a simple majority to replace the chairman, and the replacement shall act as such until such time as the titular or substitute chairman has reassumed the post. In the event of a tie, the winner shall be determined by casting lots.

All the foregoing incidents shall be recorded in the lists of voters. The entry in question and all other entries made shall indicate the time the incident occurred and shall be signed by all committee members present.

### **ARTICLE 176 - Certification of number of ballots cast**

During the voting process, polling station committees must issue certifications of the number of ballots cast up until that time when a political party supervisor so requests. The maximum number of certifications shall be three per political party.

The chairman or the secretary, or in their absence, their substitutes, must sign the certifications.

**ARTICLE 177 - Attendance of voters**

Every voter who turns up shall be asked for their full names. If the person is registered in the voters register, they shall be asked to show their identity card to check the number against which it appears in the aforementioned register. Once the identity of the voter has been verified, they shall sign beside their names, except if they are illiterate or otherwise incapable of doing so, in which case this shall be noted. They shall then be requested to enter the corresponding location to cast their vote according to the voting method established by the TSE.

**ARTICLE 178 - Time allowed for casting ballots**

The chairman of the polling station committee shall inform each voter of the time available to them to cast their votes according to the provisions of the respective regulations that the TSE shall issue at least six months in advance. After this time has passed, they shall be urged to conclude the process and if they do not do so, the chairman shall make such a voter exit the booth and if the voter does not have ballot papers ready to be placed into the ballot boxes, the chairman shall collect the ballot papers and put them aside with the reason noted and shall record this fact, without allowing that voter to vote. In the regulations, the Tribunal shall take into account the exceptions required to guarantee the disabled and the elderly the right to vote.

**ARTICLE 179 - Obligation to remain in the polling station**

Once a voter has received the ballot papers, they shall not be allowed to leave the polling station without having placed them in the corresponding ballot boxes or returned them to the members of the polling station committee.

**ARTICLE 180 - Invalidation of unjustified public votes**

If a voter makes their vote public after having voted, deliberately displaying any ballot paper, the chairman of the committee shall confiscate it and put it aside with the corresponding reason for

invalidation and shall prevent the voter from placing them in the ballot box. This incident shall be recorded in the election register.

### **ARTICLE 181 - Method of voting for individuals who require assistance**

The TSE shall take the measures required to enable people who have difficulties with voting to do so, while safeguarding the right of free exercise of the right to vote and, as much as possible, voting secrecy.

Individuals with visual impairment can cast their ballots in secrecy if they so prefer, by means of templates, for which the TSE shall take the corresponding measures.

Notwithstanding the foregoing, people who cannot cast their ballots themselves can either:

- a) Be accompanied to the voting booth by a trusted person who shall do this for them.
- b) Cast their ballots publicly when they expressly request this from the polling station committee; in this event, the chairman shall cast the ballot in accordance with the instructions of the voter.

### **ARTICLE 182 - Closing of polls**

Polls shall close at six o'clock in the evening and then, in the presence of one supervisor from each political party and any accredited observers, the polling station committee shall end the voting process and count or compute and allocate the votes, in accordance with the instructions issued by the TSE in this respect.

### **ARTICLE 183 - Notification of election results**

The chairman of the polling station committee must notify the TSE of the result of the election as soon as possible by the medium and in the form stipulated by the Tribunal and shall be personally responsible for the fidelity and dispatch of the message.

Public institutions and state-owned entities in charge of communications must cooperate fully with the TSE to provide expedited, free and rapid transmission of election results.

#### **ARTICLE 184 - Delivery of election documentation**

Once the votes have been counted and allocated, the polling station committees shall dispatch all the election documentation and materials to the corresponding cantonal board and the board shall, in its turn, deliver them to the TSE or its designated representatives as soon as possible.

However, the Tribunal can order direct delivery from the polling stations to the locations it stipulates, taking the security measures it deems appropriate in each case. Party supervisors shall be entitled to accompany the election documents to these locations.

Unused ballot papers shall be sent to the TSE together with the rest of the election documents and the latter can dispose of them at its discretion after the announcement of the election results.

#### **ARTICLE 185 - Custody of election documents**

Cantonal boards and polling station committees can request the human and material resources required for the proper safekeeping of election documents from the local police authority. The police authority cannot disregard such requests, except when doing so shall render the maintenance of public order impossible.

Subject to the personal liability of their members, cantonal boards and polling station committees shall be empowered to deputize trustworthy individuals. In this capacity, these individuals shall only comply with orders issued by the electoral organizations or the Tribunal relating to the custody of the election documents and materials in their charge.

**ARTICLE 186 - Electronic voting, counting or assessment methods**

When electronic methods are used for voting, counting or assessment, the respective regulations must ensure the preservation of voting secrecy and the security and transparency of the process, and therefore political parties with registered candidacies can also accredit supervisors in the capacity of technical experts to the polling station committee and the TSE.

If printed ballot papers are used, they must be marked with the distinctive symbol ordered by the TSE; they shall have this uniform pattern in accordance with the positions to be filled and shall be produced on non-transparent paper. Nevertheless, ballot papers or special media can be designed for citizens with physical disabilities that prevent them from using the usual ones.

**CHAPTER III  
VOTING FROM ABROAD****SECTION I  
GENERAL PROVISIONS****ARTICLE 187 - Voting from abroad**

Costa Rican citizens can exercise the right to vote from abroad to elect the President and the Vice Presidents of the Republic and to express a view in national popular consultations, according to the norms regulated herein and the regulations to be issued by the TSE to this end.

**ARTICLE 188 - Requirements for voting from abroad**

Citizens wanting to vote from abroad must comply with the same requirements and legal formalities stipulated for those voting in-country, without prejudice to anything the TSE may add thereto in an effort to ensure the validity of the vote.

## **SECTION II POLLING STATIONS**

### **ARTICLE 189 - Polling stations abroad**

The TSE can set up the polling stations it deems necessary to guarantee the participation of citizens abroad. The polling stations can be located in the diplomatic missions that Costa Rica maintains abroad or in a location proposed by the consular authority and authorized by the Tribunal.

The Tribunal must notify the voters of the location of polling stations opportunely.

### **ARTICLE 190 - Application for transfer of election domicile**

Citizens who are eager to vote from abroad must apply to the TSE for the transfer of election domicile or in the form stipulated by the latter. If this application is made at a diplomatic mission, it shall be passed on to the Tribunal for final approval. To this end, the same formalities as those stipulated for changes of electoral domicile in-country shall be followed.

### **ARTICLE 191 - Duty of cooperation**

The Ministry of Foreign Affairs and Worship must provide the TSE with all the facilities it requires to set up polling stations abroad and shall coordinate the effective application of this chapter with the Tribunal.

The Tribunal can appoint the consular authority as its delegate or appoint an election adviser for this purpose. The Tribunal delegate shall receive and safeguard the election materials and shall be responsible for them.

The Tribunal delegate shall be responsible for communicating the result of the voting. Information about the count cannot be transmitted prior to the closing of the polls in Costa Rica.



**ARTICLE 192 - Reference**

The Tribunal shall regulate the procedures, method of voting abroad, its preliminary count, the means of transfer and dispatch of the election materials that are essential for the application of this chapter.

**CHAPTER IV  
VALIDITY AND INVALIDITY OF VOTES****ARTICLE 193 - Valid votes**

Votes complying with the requirements stipulated in this Act and the regulations issued by the TSE shall be counted as valid. These regulations must specify the type of voting instrument, whether printed or electronic, as long as the sanctity of the vote and the transparency of the process are guaranteed in every case.

**ARTICLE 194 - Invalid votes**

The following votes shall be invalid:

- a)** Those cast on ballot papers or media that do not comply with the requirements stipulated in this Act or in the regulations of the TSE.
- b)** Those cast outside the stipulated polling hours and polling places.
- c)** Those marked in favor of two or more political parties.
- d)** Those cast in a way that clearly reveals the identity of the voter.
- e)** Those not allowing for the precise determination of the intentions of the voter.
- f)** Those made public under the terms stipulated in Article 180 of this Act.
- g)** Those withheld and canceled due to expiry of time for voting in accordance with Article 178 of this Act.

**ARTICLE 195 - Ballot papers with blots or stains**

The fact that a ballot paper contains blots, stains or other flaws indicating that the voter had difficulty using it shall not invalidate the vote cast provided that it is possible to precisely determine the intention of the voter.

**ARTICLE 196 - Recording of the grounds for invalidity**

As long as the majority of the committee declares a vote invalid, its chairman shall record this and shall note the reason on the back of the ballot paper, or in the document stipulated by the TSE, as well as the reasons justifying this decision.

**CHAPTER V  
VOTE COUNT****ARTICLE 197 - Obligation to commence vote counting as soon as possible**

The vote count consists of the examination and assessment of the election documentation which the TSE is in charge of, effected on the basis of the definitive count and the allocation of votes cast by the electoral organizations.

**ARTICLE 198 - Deadline for concluding the counting**

In any event, the count must be concluded within the thirty days following polling day with respect to the presidency and vice-presidencies of the Republic and within the sixty days following polling day for other popularly elected positions.

If the assessment and counting cannot be carried out in a single work session, it shall be suspended to be continued in the immediately following sessions and this shall be recorded in the respective instrument. Nevertheless, once the examination of the documentation of an electoral bag has commenced, the task shall not be interrupted until the contents of the bag have been fully counted. The Tribunal shall give preference to the counting of

the votes cast in the election for President in which exceptional effort must be invested, devoting the maximum possible number of working hours thereto. During vote counts, the substitutes for titular members of the Tribunal may work at times and on days when the former cannot be present for any reason, in order to extend working sessions as long as possible.

#### **ARTICLE 199 - Allocation of seats**

Immediately after the total number of valid votes allocated to each party has been verified, the TSE shall assign rankings, and where appropriate, make the respective declaration of the election results.

#### **ARTICLE 200 - Definitive status of the declaration of election results**

After the definitive declaration of the election results, this declaration shall be final for all intents and purposes and consequently matters concerning its validity or the legal capacity of the winner can no longer be entertained, unless for supervening grounds for disqualifying them from holding the office.

### **CHAPTER VI SYSTEM FOR THE APPORTIONMENT OF SEATS**

#### **ARTICLE 201 - Various systems used in elections for President and Vice Presidents and allocation of seats for members of the Legislative Assembly**

Elections for President and Vice Presidents of the Republic shall be conducted under the majority system established in the first paragraph of Article 138 of the Political Constitution. In the event of a tie, the stipulations of this article shall be followed.

The apportionment of seats in the Legislative Assembly or in a constituent assembly and of the positions of Municipal council members, district municipal council member and district council

member shall be carried out using the quotient and sub-quotient method.

### **ARTICLE 202 - Election of mayors, intendants and regular representatives**

Mayors, intendants, regular representatives and their substitutes shall be declared elected under the relative majority system in their canton and district, respectively. In the event of a tie, the oldest candidate and their respective substitute shall be deemed elected.

### **ARTICLE 203 - Definition of quotient and sub-quotient**

The quotient is the figure obtained by dividing the total number of valid votes cast in a specific election by the number of seats to be filled through this election.

A sub-quotient is the total number of valid votes cast for a party which, without attaining the quotient, attains or exceeds fifty percent (50%) thereof.

### **ARTICLE 204 - Determination of the quotient and sub-quotient**

The quotient and sub-quotient for the election of a constituent assembly shall be obtained by taking the total number of valid votes in the country as dividend. For the election of members of the Legislative Assembly, the dividend shall be the total number of valid votes of the respective province; for elections for Municipal council members, the dividend shall be the total number of valid votes of the respective canton and for elections of district council members and district municipal council members, the dividend shall be the total number of valid votes of the administrative district.

### **ARTICLE 205 - Apportionment of elected positions by quotient and sub-quotient**

In elections using the quotient and sub-quotient method, each party that participated in the election shall be allocated as many

candidates as the number of quotients it obtained, in the order of its placement on the ballot paper and for the electorate in question. The results of the party that obtained the highest number of votes in the electorate in question shall be declared first and this shall be continued in decreasing order of the parties.

If there are still positions not allocated through the quotient method, they shall be distributed to parties in descending order of the remainder of their votes, but also including parties that only attained the sub-quotient as if their total vote was a remainder.

If there are still unallocated seats, the operation described above shall be repeated.

The same system shall apply if none of the parties attains the quotient.

### **ARTICLE 206 - Power to resign the position of Legislative Assembly representative and the obligatory nature of the position of constituent representative**

The position of constituent assembly representative is obligatory while that of a Legislative Assembly representative is voluntary and can be resigned before this Assembly prior or subsequent to swearing in, but resignations shall not be accepted until after the apportionment of elected positions.

### **ARTICLE 207 - Definitive vacancies**

If any candidates die in the period between the registration of a slate of candidates for Legislative Assembly representative or municipal positions and the definitive announcement of election results, their place shall be deemed vacant and shall be filled by automatically moving up the other candidates on the same slate who were placed lower than the deceased candidate.

When a definitive vacancy occurs after the apportionment of elected positions, either prior or subsequent to the swearing in of the Legislative Assembly representative, the Tribunal shall fill it

by summoning the citizen who occupied the place immediately below the person who was elected to fill the position for the remainder of the constitutional period.

If this person cannot fill the vacancy, the individuals appearing on the same ballot shall be summoned in descending order.

### **ARTICLE 208 - Death, resignation or incapacity of a candidate prior to an election**

If any candidate resigns their position, dies or becomes incapacitated after the registration of candidacies and prior to the voting for positions of Legislative Assembly representative, Municipal council members or district councilor, their place shall be deemed vacant and shall be filled by automatically moving up the candidate placed immediately below them on the same list.

If such events occur subsequent to voting, the Tribunal shall order a substitution by summoning the person on the list who obtained the highest number of votes or the person immediately following on the same list, as appropriate, to fill the position for the remainder of the constitutional period.

In the event of the supervening death, resignation or incapacity of duly nominated candidates for the presidency or vice-presidencies of the Republic that occurred prior to the closing of the period for registration of candidacies, such candidates shall be replaced according to the provisions of the respective bylaws of the party, or failing this, according to the decision of the national party conference. Once this period has ended and, solely for cases of supervening death or incapacity, the vacancy shall be filled by moving candidates for the vice-presidency up the list in their order. The same rules shall apply for mayors and regular representatives.

**ARTICLE 209 - Second round of voting for the President and Vice Presidents of the Republic**

If the TSE orders a second round of voting to elect the President and Vice Presidents of the Republic, this must be held on the first Sunday in the following April. The laws and regulations in force at the time of the announcement of the February elections shall remain in force, where applicable, without being capable of modification until after the April elections.

**CHAPTER VII  
ELECTION MONITORING****ARTICLE 210 - General provisions**

Registered political parties are entitled to observe the electoral process through representatives duly accredited to each one of the electoral organizations, subject to the restrictions stipulated in this chapter.

When political parties are in the process of registration, they shall be entitled to observe the verification and counting of the membership subscriptions submitted in this respect.

**ARTICLE 211 - Accreditation**

Party representatives shall prove their status by means of an identity card issued by the political parties that appointed them and these identity cards shall be authenticated through the distinguishing symbol indicated by the Electoral Registry. In any case, the political party shall be responsible for carrying out the appropriate formalities so that their appointed representatives can be accredited by the Electoral Registry.

**ARTICLE 212 - To the Supreme Electoral Tribunal**

The chairman of the executive committee of the supreme governing body of each party shall appoint:

- a) Two representatives to the TSE.
- b) Two representatives to the Civil and Electoral Registries.
- c) One representative to each department of the Civil and Electoral Registries.
- d) One titular representative and one substitute to each regional office.

### **ARTICLE 213 - To cantonal boards**

Political parties with candidacies registered in a particular canton can appoint one titular representative and their respective substitute to the cantonal board in the following manner:

- a) For parties registered at national or provincial level, the appointment shall be made by the chairman or the secretary of the executive committee of the respective provincial conference. The bylaws of the political party can delegate this function to the chairman or secretary of cantonal executive committees.
- b) For parties registered at the cantonal level, the appointment shall be made by the chairman or the secretary-general of the executive committee of the cantonal conference.

### **ARTICLE 214 - Appointment to polling station committees**

The executive committee of the cantonal conference of each political party participating in elections with registered candidacies shall appoint one titular representative and their respective substitute to each polling station committee of the respective canton. In addition, they can be appointed by a member of the highest executive committee of the party.

Similarly, any member of the latter committee can appoint the number of general representatives fixed by the TSE.



**ARTICLE 215 - Method of performing their duties**

Party representatives shall attend public sitting and shall generally perform their duties without hindering the work of electoral organizations. They shall be provided with all facilities required for this purpose, but shall not be permitted to interfere in tasks nor participate in deliberations and must conduct themselves appropriately at all times.

The Tribunal shall be entitled to order their replacement in the event of non-performance of duties, without prejudice to the urgent measures that electoral organizations must adopt.

**ARTICLE 216 - Rights of party representatives**

Party representatives shall be entitled to:

- a) File the complaints they deem appropriate, which must be submitted in writing and signed by the representative filing it. The members of the electoral body to which the complaint is submitted must record the time and date of submission in the document and all of them shall sign this entry.
- b) Remain on the premises of the electoral body.
- c) The same immunity granted to members of electoral organizations by this Act.
- d) Request the polling station committee for certification of the result of the voting signed by all members present. This certification shall have the same evidentiary value as the lists of voters.

**ARTICLE 217 - Prohibition of multiple party representatives**

Only one representative for each political party shall be allowed on the premises of the committees. If the titular representative does not appear or is absent, their respective substitute or a general representative shall perform their duties.

## **CHAPTER VIII ELECTION OBSERVATION**

### **ARTICLE 218 - Sole Provision**

Members of national or international election observation missions duly accredited with the TSE on the basis of the respective regulations can witness the opening and closing of the polls and the counting of votes and enter a polling station at any time they choose without altering the normal voting process. Public authorities must cooperate with them as much as possible.

## **TITLE V ELECTORAL JURISDICTION**

### **CHAPTER I GENERAL PROVISIONS**

#### **ARTICLE 219 - Object of electoral jurisdiction**

Electoral jurisdiction shall be exercised exclusively by the TSE and its object shall be to guarantee the correct application of election legislation.

#### **ARTICLE 220 - Powers of the electoral jurisdiction**

Without prejudice to the other powers conferred upon it by the Political Constitution and the law, the jurisdictional power of the TSE shall include the handling and resolution of the following:

- a)** The appeal for legal protection of electoral rights.
- b)** Challenges to the resolutions of governing bodies of political parties in the process of constitution or registration.
- c)** Actions for annulment of party resolutions.
- d)** Appeals in election matters.
- e)** Applications for declaration of invalidity relating to election results.

- f) Cancellation or annulment of credentials.
- g) Complaints of bias or political belligerence.

### **ARTICLE 221 - Binding nature**

The jurisprudence of the TSE shall be binding *erga omnes* in electoral matters, except on itself.

### **ARTICLE 222 - Election legislation**

Electoral jurisdiction shall be exercised in accordance with the principles and on the basis of the sources of election legislation stipulated in this Act.

### **ARTICLE 223 - Motions for further particulars and clarification**

Notwithstanding the fact that the rulings of the TSE in electoral matters cannot be appealed, they can be clarified or added to at the request of a party, if requested within three days and, *ex officio*, at any time, including during execution procedures, to the extent that this is necessary to comply fully with the contents of the ruling.

### **ARTICLE 224 - Notifications**

The provisions of Act No. 8687 of December 4, 2008, (Judicial Notifications) shall apply to notifications.

In their first brief, the parties must indicate an address within the San José judicial district, a fax number or an email address for receiving notifications; failure to do so shall entail subsequent rulings being deemed to have been notified solely by the passage of twenty-four hours after issuance. The same result shall obtain if the address given is imprecise, uncertain or no longer exists.

## **CHAPTER II**

### **APPEAL FOR LEGAL PROTECTION OF ELECTORAL RIGHTS**

#### **ARTICLE 225 - Rights protected by the appeal for legal protection of electoral rights**

In addition to the fundamental right itself, the appeal for legal protection of electoral rights constitutes a procedural mechanism for the effective protection of politico-electoral rights and liberties.

The appeal for legal protection of electoral rights shall be applicable to any act or omission including against simple material actions that violate or threaten to violate any of the claimant's rights, if the perpetrator of any of them is a political party or other public or private entity that is de facto or de jure in a position of power capable of affecting the lawful exercise of the aforementioned rights. Complaints against the decisions of lower electoral organizations shall not be dealt with by this procedure, but rather through appeals.

This remedy shall not only be sought against arbitrary acts but also against acts or omissions based on erroneously interpreted or improperly applied norms.

#### **ARTICLE 226 - Reference to the Constitutional Jurisdiction Act**

The rules stipulated in Title III of the Constitutional Jurisdiction Act concerning the appeal for legal protection of electoral rights shall be applicable to the handling of the appeal for legal protection of electoral rights with the characteristics expressly stipulated in this chapter.

If the appellant is any of the representatives of the party against which the petition is filed, they must be replaced by their substitute for the oral hearing.

**ARTICLE 227 - Plaintiff's standing**

Any person may file a petition for the legal protection of electoral rights when they consider themselves aggrieved, or on behalf of another person, provided that it is based on the violation of a fundamental right of a politico-electoral nature. When submitted by a third party, the ratification of the aggrieved party shall be required within three working days, on pain of closure of the case.

For the purposes of the foregoing, the third party must provide an address where the aggrieved party can be notified.

**ARTICLE 228 - Deadline for filing petitions**

The period of prescription for the filing the appeal for legal protection of electoral rights shall be two months from the commencement of the violation of the right in question.

However, when the petition is filed by a candidate for a popular election within the corresponding selection period, the petition must be filed within three working days of the notification of the action of the party organ that allegedly violated their fundamental right or the holding of the party conference in which the alleged violation of their rights occurred, as the case may be.

**ARTICLE 229 - Exhaustion of internal remedies**

The filing of the appeal for legal protection of electoral rights is not conditional on the exhaustion of the internal mechanisms for challenges stipulated by law. Nevertheless, when the victim elects to pursue internal remedies, the period of prescription shall be suspended until the appeals procedures have been specifically resolved.

**ARTICLE 230 - Suspensory effect of the filing of the action**

The admissibility of petitions for the appeal for legal protection of electoral rights shall not suspend the effects of the laws or other regulatory provisions in question, but shall suspend the application thereof with respect to the appellant, as well as that of the actual acts challenged.

Nevertheless, in cases of exceptional gravity, the Tribunal can order execution, at the request of a party or ex officio, when suspension shall cause or threaten to cause certain and immediate damage or loss greater than those that execution would cause to the aggrieved party, by means of the protective measures that it deems appropriate for protecting the rights or liberties of the latter and which shall not render the effect of a possible resolution of the appeal in its favor illusory.

The suspension shall take effect automatically and shall be immediately notified to the organ or official who is the subject of the petition, by the most expeditious method possible.

Similarly, the examining chairman or justice can order any protective or safety measure prudence dictates to prevent material risks or prevent the occurrence of other damage as a consequence of the acts perpetrated, all in line with the circumstances of the case.

By means of a reasoned decision, the Tribunal can terminate the authorization for execution or any other precautionary measures that have been ordered at any time.

**ARTICLE 231 - Procedures outside normal working hours**

The TSE shall regulate the method of receiving and handling petitions for the legal protection of electoral rights outside normal working hours or on holidays or days of rest.

### **CHAPTER III**

#### **CHALLENGES TO THE RESOLUTIONS OF THE GOVERNING BODIES OF POLITICAL PARTIES IN THE PROCESS OF FORMATION AND REGISTRATION**

##### **ARTICLE 232 - Challenges to resolutions**

The resolutions of the governing bodies of political parties in the process of formation and registration can be challenged as follows: any of the members of these governing bodies can challenge them. Reports from TSE representative(s), among other items, shall serve as evidence for ruling on such challenges. The provisional executive committee shall be responsible for ruling on challenges, except when the resolutions in question are those of the supreme governing body. Decisions taken in this respect by this party instance can be appealed to the Electoral Registry within three days of the notification of the ruling. The same also applies if the challenge is to resolutions of the supreme governing body. The result of the appeal to this electoral body can be appealed to the TSE within forty-eight hours of its notification for definitive settlement.

### **CHAPTER IV**

#### **PETITIONS FOR NULLIFICATION OF PARTY RESOLUTIONS**

##### **ARTICLE 233 - Challengeable acts**

Petitions for nullification are a mechanism for monitoring the legitimacy of the acts of party organs relating to the process of nominating candidates for popular elections or the selection of internal authorities.

##### **ARTICLE 234 - Standing**

Any person who possesses a subjective right or a legitimate interest can request the nullification of the acts and regulations of these party organs.

**ARTICLE 235 - Admissibility**

Exhaustion of mechanisms for review before the collegiate dispute resolution body of the party in question shall be a requirement for allowing petitions for nullification, where applicable.

**ARTICLE 236 - Filing of petitions**

Petitions for nullification shall be filed by means of a brief stating the act or the regulation whose nullification is being requested, stating the manner in which it violates the subjective rights or legitimate interests of the claimant, and the relationship between the challenged act and the membership procedures of the party organs or mechanisms for the selection of candidates. The case shall be submitted directly to the TSE which shall decide at sole instance.

**ARTICLE 237 - Deadline for filing petitions**

The deadline for filing petitions for nullification shall be five working days which shall start to run from the time when internal remedies are exhausted.

**ARTICLE 238 - Response by political party in a hearing**

Once the action has been admitted, the chairman or secretary-general of the supreme executive committee of the political party that is the subject of the petition shall be allowed to respond to the petition in a hearing, for a maximum of three working days. If any of them is the petitioner, they must be replaced by their substitutes for the statement of defense.

**ARTICLE 239 - Rendering of rulings**

The Tribunal shall render a definitive ruling after the political party whose acts have been challenged has presented its defense or at the expiry of the period granted for this.



## **CHAPTER V APPEALS IN ELECTORAL MATTERS**

### **ARTICLE 240 - Types of appeals**

Appeals can be filed against rulings and decisions in electoral matters rendered by:

- a)** The Electoral Registry
- b)** Electoral organizations
- c)** Officials empowered to authorize activities in public spaces
- d)** Cantonal police departments
- e)** Any other official or department of the Tribunal with decision-making powers in this area or any person who collaborates in any way in the exercise of the electoral function.

### **ARTICLE 241 - Filing procedure**

Appeals must be filed within three days and before the instance that rendered the appealed decision and this instance shall rule on its admissibility. However, appeals against rulings of electoral organizations shall be filed directly with the Tribunal.

### **ARTICLE 242 - Initial processing**

Once the appeal has been ruled admissible, the respondent organ shall immediately send it to the Tribunal together with the original case file, for resolution.

Decisions unlawfully denying appeals can be appealed. In this case, the stipulations of Articles 583 et seq. of the Law of Civil Procedure shall be applied analogically.

### **ARTICLE 243 - Effects of appeals and protective measures**

Filing of appeals shall not suspend the execution of the challenged act. However, where necessary, the Tribunal can

order any appropriate protective and safety measure with the aim of preventing the sustaining of losses that shall be difficult or impossible to compensate.

#### **ARTICLE 244 - Proceedings to obtain additional evidence**

Once an appeal has been declared admissible, the Tribunal can order the holding of any evidentiary procedure while in the process of resolving the appeal and prior to rendering a ruling thereon. It can also request the assistance of the Elections Inspectorate or any other organ or official that it considers necessary for this purpose.

#### **ARTICLE 245 - Standing to file appeals**

Only individuals who possess a subjective right or legitimate interest threatened by the appealed decision shall have standing to file appeals. In accordance with the same principles, the supreme executive committee of the political parties participating with candidacies registered in the electoral process wherein the appealed decision was taken shall also have standing and shall act through their legal representative.

### **CHAPTER VI APPLICATIONS FOR DECLARATION OF INVALIDITY CONCERNING ELECTION RESULTS**

#### **ARTICLE 246 - Defects of nullity**

The following shall be vitiated by nullity:

- a) Acts, decisions or rulings of illegally constituted boards, those whose meetings have been unlawfully convened or which are operating in locations or at times different from those determined in accordance with this Act.
- b) Election registers, minutes, documents, registrations, counts or calculations which are evidently not accurate expressions of the truth.

- c) Votes allocated to a person who does not satisfy all the legal conditions required to fill the position and declarations of the election of such individuals and those effected in violation of the stipulations of the Constitution and this Act.

Notwithstanding the provisions of paragraph a) above, votes cast at a polling station whose committee includes a member who does not satisfy the conditions required by law shall be valid.

Once a petition for a declaration of invalidity is upheld on the basis of paragraph c) of this Article, when declaring the election results, the TSE shall apportion quotients without taking such individuals into account.

#### **ARTICLE 247 - Deadline for filing**

Petitions for a declaration of invalidity based on reasons noted on polling day or as a result of the preliminary count, must be submitted to the TSE in writing within three days of the day when the documentation to be assessed was delivered. In the event of any defects discovered during the final count of the votes, petitions for a declaration of invalidity must be submitted within three working days of the completion of the count by the board to which the submissions refer.

The petition shall state the defect that is complained of, indicate the legal text supporting the complaint and should be accompanied by documentary proof of the case or a concrete indication of the organization or department where such proof can be found, or the grounds for this omission should be stated, where appropriate.

#### **ARTICLE 248 - Standing**

Any person who cast a vote can file a petition for a declaration of invalidity.

**ARTICLE 249 - Occasion for filing petitions**

Petitions for declarations of invalidity must be processed before the Tribunal has made the definitive declaration of the results of the respective election, provided that there is no prior ruling by the Tribunal concerning the concrete aspect constituting the grounds for the application.

**ARTICLE 250 - Provision of evidence of defects**

In this procedure, the burden of proof shall lie upon the petitioner, which requires it to provide evidence of the defect.

**ARTICLE 251 - Verification of requirements**

Once the petition is received, the Tribunal shall verify its compliance with the requirements specifically stipulated for this procedure. If the application complies with the stipulated requirements, the Tribunal shall render a substantive decision; if not, it shall be rejected as inadmissible.

**ARTICLE 252 - Time when judgments should be rendered**

Judgments must be rendered prior to the declaration of the election results. Thereafter, matters concerning their validity or the legal capacity of the winner can no longer be entertained, unless on supervening grounds for disqualifying them from holding the office.

**CHAPTER VII  
CANCELLATION OR ANNULMENT OF CREDENTIALS**

**SECTION I  
POPULARLY ELECTED MUNICIPAL OFFICIALS**

**ARTICLE 253 - Remit**

The TSE shall order the cancellation or annulment of the credentials of popularly elected municipal officials in the situations expressly stipulated by law. These stipulations shall also apply to regular representatives, intendants, district councilors and members of district municipal councils.

In the event of conflict, the ordinary administrative procedure stipulated in the General Public Administration Act shall take place first.

**ARTICLE 254 - Standing**

The procedure shall commence at the request of any interested party who submits a substantiated complaint.

**ARTICLE 255 - Requirements**

The person filing the petition must state the specific grounds on which their request for cancellation is based and the evidence supporting their claim.

The person filing the petition shall provide the exact address where the respondent can be notified if they know it. The municipal council must provide the exact address where the official whose credentials are the subject of the petition for cancellation can be notified.

If the petition for cancellation of credentials does not comply with the stipulated requirements, the Tribunal shall issue a notification requesting compliance only once and shall grant a period of five working days for this purpose. In the event of non-compliance,

the petition shall not be proceeded with and the case file shall be closed.

### **ARTICLE 256 - Admissibility**

In any case, the Tribunal shall absolutely reject petitions for cancellation or annulment of credentials if the evidence in its possession demonstrates that these petitions are manifestly inadmissible.

### **ARTICLE 258 - Cancellation of credentials due to absence**

If a petition for cancellation of credentials is based on the unjustified absence of any popularly elected municipal official, in accordance with the provisions of the Municipal Law, the municipal council shall send a certification of the exact dates on which the official was absent together with the petition for the cancellation of credentials. The Tribunal shall hold a hearing for a period of eight days to enable the official to justify the absence or state anything they deem appropriate to their interests. Administrative procedures shall only be commenced when such officials express their opposition on this occasion.

### **ARTICLE 259 - Cancellation of credentials for offences covered by the System for the Superior Oversight and Auditing of Public Finances**

When the cancellation of credentials is requested on the grounds of the commission of a serious offence, with the contravention of the precepts of internal control legislation contained in the Structural Law of the Comptroller General of the Republic, the Anti-Corruption and Prohibition of Illicit Enrichment in the Civil Service Act, the General Internal Control Act or others relating to the System for the Superior Oversight and Auditing of Public Finances, the matter shall be sent to the Office of the Comptroller General for recommendation of the appropriate action, in accordance with Article 68 of the Structural Law of the Comptroller General of the Republic, after having prepared the respective case against the alleged offender. The Tribunal shall

render a decision once the Comptroller General or the criminal courts have issued opinions concerning the alleged violation of the aforementioned precept.

**ARTICLE 260 - Cancellation of credentials due to contravention of the Maritime-Terrestrial Zone Act**

When acts stipulated in Article 63 of the Maritime-Terrestrial Zone Act are reported, the Tribunal shall notify the Office of the Attorney-General so that the latter shall carry out a preliminary investigation into the matter and may possibly commence the respective criminal proceedings. The Tribunal shall rule on the matter once the criminal courts have rendered the respective verdict, with the Office of the Attorney-General still remaining a party to the administrative proceedings.

**ARTICLE 261 - Replacement**

Once the credentials of a popularly elected official have been ordered withdrawn or cancelled for any reason, the TSE shall summon the appropriate replacement to fill the respective position.

**SECTION II  
HIGHEST ELECTED OFFICIALS**

**ARTICLE 262 - Cancellation of the credentials of the highest elected officials (\*)**

The TSE shall cancel or annul the credentials of the President and the Vice Presidents of the Republic and those of members of the Legislative Assembly solely on the grounds stipulated in the Political Constitution, (*without prejudice to the stipulations of Article 68 of the Structural Law of the Comptroller General of the Republic*)\*.

Except where requested on the grounds of resignation, when the cancellation of the credentials of the President, Vice Presidents

or members of the Legislative Assembly is requested, the Tribunal shall confine itself to assessing the admissibility of the petition.

If the petition cannot be rejected entirely or if the matter cannot be closed, one of the members of the Tribunal shall be appointed as investigating justice to carry out a preliminary investigation without ruling on the merits of the case to this end. Once the preliminary investigation has been concluded, the Tribunal can order that the case be closed and if it decides the contrary, it shall send the case file to the Legislative Assembly to decide on the lifting of immunity. If the holder of the credential waives their immunity in order to voluntarily subject themselves to the procedure, the Tribunal shall take the appropriate action.

If the Legislative Assembly decides to waive immunity, it shall notify the TSE of this decision so that it can decide on the appropriate measures.

(\*) In final judgment N.º 11352-2010 from June 29, 2010 at 15:05 hours, the Supreme Court declared an unconstitutional action filed against Article 262 of the Electoral Act as partially admissible and the phrase "without prejudice to the stipulations of Article 68 of the Structural Law of the Comptroller General of the Republic," included in the first paragraph of that article, was void. The operative paragraph is transcribed as follows:

"The action filed is partially admissible. Therefore, the phrase "...without prejudice to the stipulations of Article 68 of the Structural Law of the Comptroller General of the Republic" included in the Electoral Act, Law N.º 8765 of August 19, 2009 published in Annex 37 to the Official Journal No. 171 of September 02, 2009 was void due to unconstitutionality. A period of thirty-six months is given to the Legislative Assembly to decree the partial amendment of the Political Constitution and to amend its Regulations and include the duty of probity as a reason for the annulment of credentials and other sanctions. This judgment has declaratory and retroactive effects to the valid date of the annulled regulation without prejudice to the rights acquired in good faith and without prejudice to consolidated legal situations. The action was declared inadmissible in all other respects. To be published entirely at the Judicial Journal and reviewed at the Official Journal. To be notified to the parties and to the Legislative Assembly. Justice Armijo Sancho and Justice Pacheco Salazar abstained from voting and declare the action as inadmissible. Justice Cruz Castro and Justice Calzada Miranda comment."

Complete judgment N.º 11352-2010 was published at the Judicial Journal N.º 218 of November 10, 2010.



**ARTICLE 263 - Standing to file, requirements and admissibility**

With respect to the standing to file, requirements for and admissibility of petitions for cancelation of credentials of the highest elected officials, the provisions stipulated for popularly elected municipal officials shall apply, where appropriate.

**ARTICLE 264 - Cancelation of credentials by resignation**

The TSE shall cancel the credentials of the President, the Vice Presidents or members of the Legislative Assembly by resignation, after the Legislative Assembly has taken cognizance thereof.

**CHAPTER VIII  
PETITIONS ON THE GROUNDS OF BIAS  
OR POLITICAL BELLIGERENCE****ARTICLE 265 - Jurisdiction**

Petitions concerning the political bias of government officials in the performance of their duties or through participation in politico-electoral activities by public officials prohibited from doing so shall be filed with the TSE.

**ARTICLE 266 - Standing**

Procedures shall be initiated at the instance of a political party or at the petition of any natural person who has knowledge of such acts. Anonymous petitions shall not be processed.

**ARTICLE 267 - Requirements for petitions**

Petitions must be submitted in writing personally or duly authenticated by a lawyer, excepting public authorities and representatives of political parties who shall not be required to authenticate their signatures if they do not submit petitions personally. Petitions shall contain the following:

- a) The name and position of the petitioner.
- b) A clear, precise and detailed account of the act(s) on which the petition is based, indicating the location, date and time of their occurrence.
- c) The name of the person(s) to whom these acts are attributed, the position they occupy and the location where they can receive notifications, if the latter is known.
- d) Names of any witnesses and their respective addresses if the petitioner knows them.
- e) Other circumstances that can prove these facts and help to appreciate their nature.
- f) Documents or any other means of proof deemed suitable for the clarification of the event. If petitioners do not have the relevant documents at their disposal, they shall indicate the public department or location where these are located.
- g) Location and means for receiving notifications.
- h) Date and signature.

### **ARTICLE 268 - Admissibility**

The Tribunal shall entirely reject petitions when they are manifestly inadmissible.

### **ARTICLE 269 - Procedure**

Once a petition has been accepted for processing, the Tribunal shall send it to the Elections Inspectorate which shall be in charge of the procedure. The stipulations of the ordinary administrative procedure regulated in the General Public Administration Act shall be followed to this end. Once the investigation has been concluded, the Elections Inspectorate shall send the case file to the Tribunal for its resolution.

The Tribunal can also order the Elections Inspectorate to carry out a preliminary administrative investigation to determine the merits of the commencement of ordinary administrative proceedings.

Once this investigation has been concluded, the Tribunal may close the case or proceed in accordance with paragraph one of this Article.

### **ARTICLE 270 - Lifting of immunity**

If the petition contains charges against the President, Vice Presidents, government ministers, diplomats, auditors-general and deputy auditors-general of the Republic, justices of the Supreme Court of Justice or any other official who enjoys immunity, the Tribunal shall confine itself to assessing the admissibility of the petition and to order the Elections Inspectorate to carry out a preliminary investigation, if it deems this necessary.

If the submitted petition cannot be rejected entirely or if the matter cannot be closed, the Tribunal shall send it to the Legislative Assembly for the execution of the constitutionally stipulated process for the lifting of immunity.

If the holders of the immunity waive it in order to voluntarily subject themselves to the procedure, the Tribunal shall take the appropriate action.

## **TITLE VI CONTRAVENTIONS OF ELECTION LEGISLATION**

### **CHAPTER I ELECTORAL CRIMES**

#### **ARTICLE 271 - Crimes relating to the functioning of Electoral Boards**

The following individuals shall be liable to a term of imprisonment of two months to one year:

- a)** Polling station committee chair individuals or their replacements who fail to notify the TSE of election results.
- b)** Members of Electoral Boards who retain election documentation.

- c) Individuals claiming to be representatives of a political party or members of polling station committees.
- d) Polling station committee members who fraudulently refrain from signing the backs of ballot papers or do not perform the duties assigned to them by this Act.

### **ARTICLE 272 - Aggravated crimes relating to the functioning of Electoral Boards**

The following individuals shall be liable to two to six years' imprisonment:

- a) Any person who votes more than once in the same election.
- b) Any person who votes without being entitled to do so or who replaces another.
- c) Any person who prevents a polling station committee from functioning properly or who prevents any of its members from performing their duties.
- d) Any polling station committee member who counts invalid votes as valid, alters valid votes to render them invalid or fails to count valid votes for a party or a candidate for the purpose of altering the vote counts of the committee to favor or cause detriment to a political party.
- e) Any polling committee member who allows a person to vote when not entitled to do so or by impersonating others.
- f) Any polling committee member who infringes voting secrecy.
- g) Any polling committee member who substitutes or destroys ballot papers on which voters have cast their votes.
- h) Any person who impedes or interrupts the opening of the polls, changes the premises for this purpose, extracts ballot papers placed in ballot boxes or removes election materials from the committee for the purpose of impeding voting.

- i) Any person who opens or abstracts the election documentation bag prior to the execution of the stipulations of election legislation or without complying with the requirements stipulated therein.
- j) Any person who carries out any maneuvers tending to falsify the result of an election.
- k) Any person who does not send election documentation to the TSE or to the person it stipulates, after the preliminary assessment has been carried out.

### **ARTICLE 273 - Crimes relating to political party funding**

Any person who raises funds for any political party without having been authorized to do so by the party treasurer shall be liable to two to four years' imprisonment.

A term of imprisonment of three to six years shall be imposed on public auditors who certify audits of expenses of state funding with their signatures having concealed information, entered false data in the certification of party expenses or in the internal control report concerning them, or having refused to provide the information required by the Tribunal for the purpose of verifying the audit of expenses reimbursable by state funding.

### **ARTICLE 274 - Crimes relating to private contributions**

The following individuals shall be liable to two to four years' imprisonment:

- a) Any person who makes contributions or donations in cash or in kind to a political party on behalf of a foreign national or a Costa Rican or foreign legal entity.
- b) Any foreign national who makes contributions or donations in cash or in kind to a political party, except in the situation covered by Article 124 of this Act.
- c) Any foreign national or legal representative of a foreign legal entity that acquires bonds or carries out other financial transactions related to political parties.

- d) Any person who makes contributions or donations directly to factions, candidates or primary election candidates officially registered by political parties, evading the controls on party finances.
- e) Any person who makes contributions or donations or provides any other type of support, in cash or in kind, to a political party through third parties, parallel groups or organizations or through the use of administrative or fundraising mechanism that are not previously authorized by the supreme executive committee of the party.

### **ARTICLE 275 - Crimes relating to the receipt of illegal private contributions**

Any treasurer of the supreme executive committee of a party who fails to maintain a record of the fundraising activities of the party including those of factions and movements shall be liable to a term of imprisonment of one year.

The following individuals shall be liable to two to six years' imprisonment:

- a) Any member(s) of party supreme executive committees who have knowledge of contributions or donations in cash or in kind that contravene the provisions of this Act and do not report them to the competent authorities.
- b) Any member(s) of party supreme executive committees, candidates and primary election candidates officially registered by political parties, election campaign officials or any political party representatives who receive contributions, donations or any other type of support using a parallel structure to avoid the supervision of the political party.
- c) Any member(s) of party supreme executive committees, leaderships of election campaigns or any other party representative who receives contributions, donations or any other type of illegal support.

- d) Any candidate or primary election candidate officially registered by a political party who receives contributions or donations directly.

### **ARTICLE 276 - Crimes relating to party treasurers**

The following individuals shall be liable to two to four years' imprisonment:

- a) Party treasurers or individuals authorized by political parties to manage party funds, who receive contributions, donations, loans or support, directly or indirectly, in cash or in kind, in contravention of the provisions of this Act, when these originate from foreign legal entities, are deposited in foreign bank accounts or are effected through parallel structures.
- b) Political party treasurers who, having been informed by the Tribunal of the duty to report contributions, donations and support in cash or in kind received by this political party, fail to send these report, submit incomplete reports or delay them without just cause.
- c) Political party treasurers who do not provide information from audits of private contributions made to the party when formally requested to do so by the Tribunal or provide false data.
- d) Treasurers who do not immediately notify the Tribunal of irregular private contributions made to political parties or illegal deposits made into the single account of the party.
- e) Treasurers who receive contributions from international organizations not accredited with the Tribunal.

Treasurers who receive anonymous contributions made to a political party shall be liable to two to six years' imprisonment.

**ARTICLE 277 - Crime of rendering poor voter transport services on polling day**

Any public transport concessionaire or license holder with assigned bus routes or their representative who orders the suspension or worsening of public service on polling day shall be liable to two to twelve months' imprisonment.

**ARTICLE 278 - Crime of manipulation of the electoral roll**

Any election official who registers a voter in the electoral roll more than once, excludes them, unjustifiably transfers them or adds someone who should not be included for the purpose of interfering in voting shall be liable to two to six years' imprisonment.

**ARTICLE 279 - Crime against the free will of voters**

Any person who, by means of gifts, promises of gifts, violence or threats, attempts to induce or induces any person to support a candidacy, vote in a specific way or abstain from doing so shall be liable to two to twelve months' imprisonment.

A term of two to six years' imprisonment shall be imposed on any individuals who carry out the act indicated in the foregoing paragraph under the following aggravating circumstances:

- a) These acts are committed by public officials acting in or on the occasion of the exercise of their office and offering or providing housing vouchers, grants, allowances or any other type of advantage, social assistance or gifts financed with public funds to induce any person to vote in a specific way, support a candidacy or refrain from doing so.
- b) Perpetration of acts of coercion and violence, making of threats or taking of reprisals against salaried employees by their employers or their representatives to induce any person to vote in a specific way, support a candidacy or refrain from doing so.



Any person who falsely denounces or accuses any person they know to be innocent of committing or participating in the crime against the free will of voters or fakes evidence against such individuals shall be liable to two to six years' imprisonment.

**ARTICLE 280 - Crime relating to falsehoods in party membership forms**

Any person who signs a membership form for the purpose of registering a political party in replacement of another person or who induces the perpetration of this act shall be liable to two to twelve months' imprisonment.

**ARTICLE 281 - Crime of alteration of publications**

Any director or official of the Government Printing Office who does not execute publications in the form and within the time required by this Act or any officials who modify original publications shall be liable to two to twelve months' imprisonment.

**ARTICLE 282 - Suspension of political rights**

Perpetrators of electoral crimes sentenced to terms of imprisonment equivalent to or greater than three years shall, in addition to the principal sanction, also have their political rights suspended for the same length of time as the principal sanction.

**ARTICLE 283 - Disqualification from holding public office**

If a perpetrator of any crime classified in this chapter is a public official and the crime is committed during the exercise of their functions or using their status, this shall lead to their dismissal from office and they shall be liable to the additional sanction of disqualification from the exercise of public office for a period of two to eight years.

**ARTICLE 284 - Disobedience**

Total or partial disobedience of or non-compliance with the resolutions, orders or decisions containing them issued by the TSE in electoral matters on the basis of its constitutional and legal powers shall constitute the crime of disobedience stipulated in the Criminal Law, without prejudice to the measures taken to compel compliance.

**ARTICLE 285 - Competent courts**

The respective criminal courts shall have the jurisdiction to try the crimes stipulated in the foregoing articles.

**CHAPTER II  
ELECTORAL OFFENSES****ARTICLE 286 - Fines for the extemporaneous publication of advertising and surveys**

The following individuals shall be liable to a fine of two to ten times the statutory monthly minimum wage:

- a) Managers or responsible officers of communication media who, by action or omission, during the three days immediately prior to the election or on polling day itself, allow the total or partial dissemination or publication by any means or in any way of the results of surveys or opinion polls concerning electoral processes.
- b) Managers or responsible officers of communication media who authorize the total or partial dissemination or publication by any means or in any way of the results of surveys or opinion polls concerning electoral processes carried out by natural or legal individuals not registered with the TSE.
- c) Managers or responsible officers of communication media who authorize the total or partial dissemination or publication by any means or in any way of election

advertising during the three days immediately prior to the elections, on polling day itself, the period from December twenty-six to January first, both days inclusive, immediately prior to the elections or on Holy Thursday and Good Friday, for political party internal elections.

### **ARTICLE 287 - Fines relating to the monitoring of private contributions**

The following entities shall be liable to a fine of two to ten times the statutory monthly minimum wage:

- a)** Political parties that contravene the provisions of Article 88 of this Act.
- b)** Political parties that contravene the provisions of Article 122 of this Act.
- c)** Those responsible for the finances of officially registered primary election candidates or candidates who do not comply with the provisions of Article 127 of this Act.
- d)** Banks managing single bank accounts of political parties that do not comply with the obligations stipulated in Article 122 of this Act.

### **ARTICLE 288 - Fines for the receipt of irregular contributions**

The following entities shall be liable to a fine equivalent to double the amount received as an irregular contribution:

- a)** Political parties receiving contributions in contravention of Article 123 of this Act.
- b)** Political parties receiving contributions, donations or any other type of support in contravention of Article 129 of this Act.
- c)** Political parties receiving contributions in contravention of Article 128 of this Act.

**ARTICLE 289 - Fines for the illegal dissemination of propaganda and the results of opinion polls**

The following individuals and entities shall be liable to a fine of ten to fifty times the statutory monthly minimum wage:

- a) Public or private natural or legal individuals who do not comply with the stipulations of Articles 136, 138 and 140 of this Act, provided that the conduct is not sanctioned as a crime in this same Act.
- b) Political parties or natural or legal individuals who commission election advertising in communication media to be published during the period when advertising is prohibited.

**ARTICLE 290 - Fines relating to the functioning of Electoral Boards**

The following individuals shall be liable to a fine of two to ten times the statutory monthly minimum wage:

- a) Members of Electoral Boards who appear armed, inebriated or under the influence of illegal drugs at the premises where the electoral body is operating, or individuals who are reluctant to perform the duties assigned, without prejudice to the liabilities stipulated in Act No. 7530 of July 10, 1995, the Firearms and Explosive Act, and the amendments thereto.
- b) Members of Electoral Boards who do not attend its sittings for no just cause.
- c) Individuals who transfer their identity cards in any way on polling day and individuals who have the identity cards of others in their possession without any justification.
- d) Individuals who unlawfully remain in election premises.
- e) Individuals who impede in any way access to voting premises for disabled individuals, senior citizens and individuals with reduced mobility on polling day.

**ARTICLE 291 - Fines for improper election propaganda practices**

The following individuals shall be liable to a fine of two to five times the statutory monthly minimum wage:

- a) Any person who having been authorized by the Tribunal to place advertising in specific locations during an activity, does not remove it immediately after the end of this activity.
- b) Any person who disobeys the regulations in force concerning meetings, rallies and processions or the orders of TSE delegates.

**ARTICLE 292 - Fines on employers who prevent their employees from exercising their right to vote**

Any employer who in contravention of the obligation stipulated in paragraph j) of Article 69 of the Labor Law, prevents their employees from absenting themselves from work on polling day for a reasonable length of time to cast their votes or who applies any sanction to them or reduces their salaries by virtue thereof shall be liable to a fine of two to ten times the statutory monthly minimum wage.

**ARTICLE 293 - Fines for non-performance of duties by a public official**

Public officials who unjustifiably refuse to issue reports, attestations, certificates or supporting documents or delay the dispatch of these documents requested by individuals or public officials for election-related purposes for no reason shall be liable to a fine of two to five times the statutory monthly minimum wage.

**ARTICLE 294 - Fines for the wrongful possession of election documentation**

The following individuals shall be liable to a fine of ten to twenty times the statutory monthly minimum wage:

- a) Any person who has official electoral ballot papers in their position without just cause during the campaign or who has a false ballot paper in their possession at any time.
- b) Any person who contravenes the obligations stipulated in Articles 184 and 185 of this Act.

### **ARTICLE 295 - Statutory minimum wage**

The definition of statutory minimum wage contained in Act No. 7337 of May 5, 1993 and the amendments thereto shall be used for the imposition of fines.

### **ARTICLE 296 - Imposition of fines**

The TSE shall be responsible for the imposition of fines for the electoral offenses regulated in this Act, through the Political Party Funding Department, whose decisions can be appealed to the Tribunal.

### **ARTICLE 297 - Administrative procedure for the imposition of fines**

The determination of the sanctionable event shall involve the execution of an ordinary administrative procedure by the Elections Inspectorate, wherein the alleged offender shall be guaranteed due process.

### **ARTICLE 298 - Obligation of banks**

If a contribution is made in contravention of the provisions of this Act by means of a bank deposit or transfer, the bank receiving the contribution must immediately freeze the funds and inform the TSE which shall, where appropriate, impose a fine and order the deposit of funds held by the bank into the TSE's single account.

**ARTICLE 299 - Joint and several liabilities of political parties**

When fines are imposed on any members of a party organ for conduct in the exercise of their position in the party, this shall entail the joint and several liability of the respective political group.

**ARTICLE 300 - Possibility of withholding state funding**

When a political party entitled to state funding is liable for the fines stipulated in this chapter, the Tribunal can order the withholding of up to five percent (5%) of the amount granted as long as the fine remains unpaid.

**ARTICLE 301 - Destination of funds collected from fines**

The money collected from fines imposed shall be deposited in the single account of the TSE.

**ARTICLE 302 - Fines relating to the use of advertising in public places**

Any person who projects or places election advertising in public highways or places and on street furniture shall be liable to a fine of one to five times the statutory monthly minimum wage.

**TITLE VII  
FINAL PROVISIONS****ARTICLE 303 - Budgetary execution**

The TSE shall execute its budget with full autonomy with respect to the formalities and procedures established by the Executive Branch in the area of budgetary execution and management of funds. To this end, the National Treasury shall transfer the corresponding resources assigned to it in the national budget of the Republic in cash every two months in advance.

**ARTICLE 304 - Processing of tenders for the procurement of election materials**

During the year prior to the year in which an election must be held, the budgetary management departments must process requests for goods and credit reserves submitted by the TSE within five calendar days, without having to describe the advisability or occasion of the expenses.

During this period, at the Tribunal's discretion, the acquisitions of goods and services required for the organization of the electoral process can be carried out by direct contracting, no matter their amount.

No appeals can be filed against tender awards. Where applicable, the Administrative Contracting Act and its Regulations shall be deemed amended.

The ballot papers required for the various electoral processes for which the TSE is responsible shall be printed in the Government Printing Office. However, the Tribunal can have these documents printed in private presses, dispensing with the tendering process required by the Administrative Contracting Act. By virtue of foregoing, the Government Printing Office shall remain at the orders of the Tribunal for the period these printing operations last.

The Tribunal can contract directly with respect to advertising spaces and products during this same period.

**ARTICLE 305 - Publications**

The publications ordered by this Act shall always be published free of charge in *La Gaceta*.

**ARTICLE 306 - Franking privilege during election periods**

During election campaign periods, electoral organizations shall enjoy franking privileges for all the services provided by public



entities and enterprises responsible for communications and postal services. On polling day, individuals shall enjoy franking privileges for these services, to complain to the administrative, judicial and electoral authorities about any irregularity.

### **ARTICLE 307 - Obligation of public departments to provide reports**

Public departments must provide electoral organizations with all the data or reports the latter request in relation to its functions.

### **ARTICLE 308 - Elections during periods of suspension of constitutional rights**

If an election must be held during a period of suspension of constitutional rights, the decree suspending them shall not produce any effect on polling day in the aspects relating to the electoral process, which must be carried out in an environment of liberty and unrestricted citizen rights.

### **ARTICLE 309 - Institute for Training and Studies in Democracy**

The TSE shall have the Institute for Training and Studies in Democracy dedicated to the formulation of training programs targeted at the people and political parties tending to promote democratic values and civic participation, in line with regionalization principles.

The Institute shall have the following functions:

- a) To prepare and execute training programs to encourage an active population, for which special attention shall be given to sectors with the greatest difficulties in participating in politics for regional, socio-economic or cultural reasons.
- b) To organize education and training workshops throughout the country, and in rural areas in particular, aimed at providing people with information concerning the exercise of politico-electoral rights for the purpose of

encouraging the participation of these people in local, provincial and national politics.

- c)** To provide political parties with training concerning issue of election administration, electoral justice, democracy and internal organization.
- d)** To collaborate with political parties in matters of citizen education, promoting virtual or self-study courses in electoral matters.
- e)** To collaborate with the Ministry of Public Education (MEP) in the formulation of civic education programs targeted at the student population in order to strengthen the civic and democratic values of people.
- f)** To provide information to the public concerning the democratic system and the role of popularly elected officials.
- g)** To provide elected officials with training in electoral issues and to coordinate with other public institutions to give courses relating to the exercise of public office.
- h)** To promote the development of investigations and publications about issues related to democracy and elections.
- i)** To administer a documentation center specializing in democracy and elections that is accessible to the public and uses information technology.
- j)** Any other function assigned to it by the Tribunal.

The budget of the TSE shall finance the operations of the Institute, without prejudice to the receipt of national and international donations by the Tribunal for the achievement of the objectives of the Institute and the signing of cooperation agreements with institutions or organizations associated with civic education and training, without any of this being capable of compromising the neutrality and independence of electoral organizations in any way. The Tribunal shall be empowered to deposit the donations in trusts that shall be established in the commercial banks of the State.

Under no circumstances may the Institute promote a particular ideology or program.

**ARTICLE 310 - Amendment of other Acts**

The following provisions are hereby amended:

- a) Article 14 of the Municipal Law. The text shall read as follows:

**“Article 14 -**

The executive official indicated in Article 169 of the Political Constitution shall be known as the municipal mayor.

There shall be two municipal vice mayors: a first vice mayor and a second vice mayor. The first vice mayor shall carry out administrative and operational functions assigned to them by the titular mayor; in addition, they shall also automatically replace the mayor when the latter is temporarily and definitively absent, with the same responsibilities and powers as the latter during the period of substitution.

When the first vice mayor cannot replace the mayor when the latter is temporarily or definitively absent, the second vice mayor shall replace the mayor automatically, with the same responsibilities and powers as the latter during the period of substitution.

In district municipal councils, the executive official stipulated in Article 7 of Act No. 8173 is the district intendant who shall have the same powers as the municipal mayor. Furthermore, these shall be a district vice-intendant, who shall carry out the administrative and operational functions assigned to them by the titular intendant. They shall also replace the district intendant automatically when the latter is temporarily and definitively absent, with the same responsibilities and powers as the latter during the period of substitution.

All popularly elected positions at municipal level stipulated by law shall be popularly elected by means of general elections to be held on the first Sunday in February, two years after the national elections in which the President and Vice Presidents of the Republic and the members of the Legislative Assembly shall be elected. They shall take office on May 1st of the same year of the election for a period of four years and can be reelected”.

- b) Article 32 of Act No. 8492 of March 9, 2006, Regulation of Referenda. The text shall read as follows:

**“Article 32 - Electoral crimes and offenses during referendum process**

Any person who perpetrates the acts stipulated in Chapters I and II of Title VI of the Electoral Act when popular consultations are being held by way of referendum process or during them shall be liable to the sanctions stipulated in these regulations for these infractions.”

- c) The first paragraph of Article 3 of Act No. 7633, Regulation of the opening hours of liquor stores. The text shall read as follows:

**“Article 3 - Closure of stores**

Liquor stores must remain closed on Holy Thursday and Good Friday.

(...)”

- d) The Articles comprising Chapters I, II, III and XIII of Title I of the TSE and Civil Registry Structural Law, Act No. 3504 of May 10, 1965, are hereby derogated.
- e) Act No. 1536 of December 10, 1952, Electoral Act, and its amendments are hereby derogated.

**TRANSITORY PROVISION I - Distribution of state funding**

In accordance with Article 96 of the Political Constitution, political parties shall be entitled to receive state funding equivalent to zero point one one percent (0.11%) of GDP in order to cover the campaign expenses for elections to the presidency, vice-presidencies and the Legislative Assembly and the expenses incurred for their permanent training and political organization activities for the 2010 elections.

**TRANSITORY PROVISION II -**

The obligation for compliance with the principles of parity and gender alternation in party structures shall be required for the process of renewal of these structures subsequent to the 2010 national elections. Prior to this date, political parties shall comply with the rule of forty percent (40%) of women's participation in politics, as a minimum.

**TRANSITORY PROVISION III -**

For the 2010 municipal elections, it shall be understood that the forty-five day period for the submission of the liquidations for expenses incurred by participation in municipal electoral processes shall start to run from the apportionment of regular representatives and municipal council positions.

**TRANSITORY PROVISION IV -**

The liquidation stipulated in this Act that must be submitted by political parties entitled to state funding in accordance with Article 96 of the Political Constitution for the 2006-2010 political campaign shall include a section with the liquidation of the expenses for training and political organization incurred subsequent to the day immediately following the day on which they submitted the final liquidation for the previous campaign to the TSE and up until the date of the call for the elections for President and Vice President which shall be held in 2010.

**TRANSITORY PROVISION V -**

Members of committees and boards or managers and assistant managers of autonomous institutions in office at the time of the promulgation of this Act who are not subject to the prohibitions on the participation by employees and public officials in political party activities, the attendance of political clubs and meetings, the use of the authority or influence of their positions to the advantage of political parties, the placement of symbols on the residences or vehicles or the flaunting of other symbols of party affiliation shall not be subject to the prohibition contained in Article 146 of this Act.

**TRANSITORY PROVISION VI -**

The regulations concerning the internal organization of the TSE shall come into force from the time the latter has the required budget.

**TRANSITORY PROVISION VII -**

The Ministry of Finance must deposit advance payments in a National Treasury single account in cash with effect from the publication of this Act, so that advance payments shall be applicable for the 2010 national elections.

**TRANSITORY PROVISION VIII -**

Voting form abroad shall not be possible in the 2010 national elections.

**TRANSITORY PROVISION IX -**

Pending proceedings under electoral jurisdiction initiated prior to the entry into force of this Act shall be concluded in accordance with the statutory provisions in force when the proceedings were initiated or when the ruling proceeding with the case was issued.

**TRANSITORY PROVISION X - Amount of state funding (\*)**

During the national elections of 2014 and the municipal elections of 2016, to cover the expenses incurred in the campaigns for the presidency and vice-presidencies, members of the Legislative Assembly and all municipal positions and to meet the needs of training and political organization in accordance with Article 96 of the Political Constitution, political parties shall be entitled to receive state funding equivalent to zero point one one percent (0.11%) of GDP.

(\*) This Transitory Provision was added to include the sole article of Law N.º 9168 "Amendment to the Electoral Act, Law N.º 8765, to add a transitory provision to amend the amount of state contribution for the National Elections of 2014 and Municipal Elections of 2016". It is valid as of the date of its publication. Published in the Official Journal N.º 188 of October 1, 2013.

In force from the time of its publication.

**LEGISLATIVE ASSEMBLY** - Approved on the eleventh day of the month of August, two thousand and nine.

**TO BE COMMUNICATED TO THE EXECUTIVE BRANCH**

Francisco Antonio Pacheco Fernández  
**PRESIDENT**

Xinia Nicolás Alvarado  
**FIRST SECRETARY**

Guyón Massey Mora  
**SECOND SECRETARY**

Given in the Presidency of the Republic, San José, on the nineteenth day of the month of August, two thousand and nine.

**To be executed and published**

**OSCAR ARIAS SÁNCHEZ**

**RODRIGO ARIAS SÁNCHEZ**

Chief of Staff, Executive Office of the President

**JANINA DEL VECCHIO UGALDE**

Minister of the Interior, Police and Public Security



## MISSION OF IFED

To promote democratic values and civic participation through the development and implementation of training programs, workshops, online courses or self-training, research and publications on topics related to democracy and elections led to election officials, political parties and the general public.

## VISION OF IFED

To establish itself as the national and international benchmark in research and training on issues related to democracy and elections, as well as in the promotion of civic culture.



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