

**ACT 21/1991,
OF 17TH JUNE,
ON THE FOUNDING
OF THE ECONOMIC
AND SOCIAL COUNCIL**

Spanish Official State Gazette of 18th June 1991

JUAN CARLOS I

KING OF SPAIN

**To all those who have regard to the present Act.
Be it Known: That Spanish Parliament has passed and I hereby sanction
the following Act:**

PREAMBLE

The Spanish Constitution contains the mandate addressed to the government authorities to promote and facilitate citizen participation in the economic and social life of the country, either directly or through organizations or associations.

The organ thus created, under the name of Economic and Social Council, reinforces the participation of the economic and social agents in economic and social life, reaffirming their role in the development of the Social Democratic State based on the Rule of Law.

At the same time that it fulfils this constitutional function, the Economic and Social Council serves as a permanent institutional platform for dialogue and debate, insofar as it is the only organ where a wide range of socio-professional organizations are represented.

Moreover, the Economic and Social Council fulfils the legitimate aspirations held by the economic and social agents to have their opinions and planned approaches heard when the Government makes decisions which may affect their own interests. In this regard, the advisory function instituted by the Economic and Social Council shall be carried out in relation to the regulatory activity of the Government in socio-economic and labour matters.

ECONOMIC AND SOCIAL COUNCIL

This participation is basically reflected in the issuing of reports or opinions which may be either mandatory or voluntary, depending on the circumstances, or at the initiative of the Economic and Social Council itself.

The Economic and Social Council furthermore becomes a likewise permanent instrument of communication between the economic and social agents and the Government; in this regard, it enhances the relation and the cooperation between these agents and the Government.

The basic lines along which the Bill is drawn up and which determine the characteristics of the institution created within it are as follows:

a) The Economic and Social Council is created as an advisory organ in socio-economic and labour matters.

b) The advisory function instituted through the Economic and Social Council shall be carried out in relation to the regulatory activity of the Government in the above-mentioned area.

This participation is basically reflected in the issuing of reports or opinions which may be either mandatory or voluntary, depending on the circumstances, or at the initiative of the Economic and Social Council itself.

c) At its own initiative, the Council may draft reports or studies on a series of matters which express the opinion this organ has on such matters.

d) The Economic and Social Council is made up of the major trade unions and employers' organizations as well as other organizations or social forces representing different interests.

e) There are no plans to include Government representatives, given the fact that the Council is an advisory organ for the Government and that consequently it is imperative to ensure its independence in forming and issuing its criteria. On the basis of this required functional autonomy, the Council is provided with broad powers of self-organization.

f) The Council shall also be comprised of a group of experts who will contribute to ensuring the essential technical quality of its work. This group shall be made up of specially trained individuals having recognized experience in socio-economic and labour matters and who will carry out their work independently.

g) The Council enjoys broad powers of autonomy and organization which ensure its independence.

Section One. Founding and Legal Nature

1. The Economic and Social Council is founded with the composition, organization and functions established in the present Act.

2. The Council is an advisory organ for the Government in socio-economic and labour matters.

3. The Economic and Social Council, attached to the Ministry of Labour and Social Affairs, is established as a Public Law Entity pursuant to section 6.5 of Royal Legislative Decree 1091/1988, of 23rd Sep-

tember, Revised Text of the General Budget Act, having its own legal entity and full capacity to act, with organic and functional autonomy to fulfil its objectives.

4. The Council shall have its headquarters in Madrid.

Section Two. Composition

1. The Council shall be made up of 61 members, including its Chairman. Of these, 20 shall comprise the First Group, representing the trade unions; 20 shall comprise the Second Group, representing the employers' organizations; and 20 shall comprise the Third Group, of which 3 shall correspond to the agricultural sector, 3 to the maritime-fisheries sector, 4 to consumers and users, 4 to the social economy sector, and the remaining 6 shall be experts in matters which are relevant to the Council.

2. The First Group of Council members shall be designated by those trade unions which are deemed to be most representative, in proportion to their degree of representation pursuant to the stipulations of sections 6.2 and 7.1 of Parliamentary General Act 11/1985 of 2nd August, on Trade Union Freedom.

3. The Second Group of Council members shall be designated by those employers' organizations deemed to be most representative, in proportion to their degree of representation pursuant to the stipulations of the Sixth Additional Provision of Act 8/1980, of 10th March, on the Workers' Statutes, in the version of Act 32/1984, of 2nd August.

4. The Third Group of Council members shall be proposed, in each case, by the entities or associations indicated below:

a) Those corresponding to the agricultural sector, by the professional organizations of that sector.

b) Those corresponding to the maritime-fisheries sector, by the fisheries producers organizations of that sector.

c) Those corresponding to consumers and users, by the Consumers and Users Council.

d) Those corresponding to the social economy sector, by the cooperative associations and industrial associations.

5. The experts shall be appointed by the Government of the Nation at the joint proposal of the Ministry of Labour and Social Security and the Ministry of Economy and Finance, after consulting with the organizations represented in the Council, and shall be specially trained individuals having recognized experience in the socio-economic and labour field.

6. Council members, when performing their duties, shall act with full autonomy and independence.

Section Three. Appointment, Term of Office and Removal

1. The Chairman of the Economic and Social Council shall be appointed by the Government of the Nation at the joint proposal of the

ECONOMIC AND SOCIAL COUNCIL

Ministry of Labour and Social Security and the Ministry of Economy and Finance, after consultation with the representation groups that make up the Council. In any event, the person whose appointment is proposed is to have the backing of at least two-thirds of the Council members.

Those Council members designated or proposed by the entities and associations referred to in the preceding section shall likewise be appointed by the Government at the proposal of the Ministry of Labour and Social Security which shall be informed by said entities and associations of the designation or proposal of the corresponding members.

2. The Council shall have two Vice-Chairmen elected by the Plenary Assembly, each one being proposed by and chosen from among the members representing the trade unions and employers' organizations, respectively.

The Vice-Chairmen shall substitute the Chairman in cases of vacancy, absence or illness, as stipulated in the internal regulations and they shall perform the duties expressly delegated to them by the Chairman.

3. The Secretary General is the Council organ for technical and administrative assistance and the depository for the notarisation of Council resolutions.

The Secretary General shall be freely appointed and removed from office by the Government at the joint proposal of the Ministry of Labour and Social Security and the Ministry of Economy and Finance, after consultation with the representation groups in the Council. In any event, the person whose appointment is proposed is to have the backing of at least two-thirds of the Council members.

4. The term of office for Council members, including their Chairman, shall be for four years, renewable for additional four-year periods, and shall begin to take effect as from the day after publication of members' appointment in the Spanish "Official State Gazette".

Notwithstanding, Council members, including their Chairman, shall continue in office until such time as the new Council members take office.

5. Council members shall be removed from office on any of the following grounds:

a) The Chairman, by Government decision, at the joint proposal of the Ministry of Labour and Social Security and the Ministry of Economy and Finance, subject to the stipulations of section 7, 1.1, c) of this Act.

b) When their term of office is up, subject to the stipulations of number 4 of this section.

c) At the proposal of the organizations which sponsored the appointment.

d) Owing to resignation accepted by the Council Chairman, or in the case of resignation of the Council Chairman, accepted by the Government.

e) In the event of death.

f) Due to violation of confidentiality inherent to his duties, such behaviour being assessed by the Council Plenary Assembly.

g) Due to conviction for wilful misconduct.

6. Any time a member leaves office before his term is up, the ensuing vacancy shall be covered by the organization to which the holder of the vacant office belongs. The term of office of the person so appointed shall expire at the same time as does that of the remaining Council members.

Section Four. Incompatibility

1. The status of Council member shall be incompatible with the exercise of any post or activity which may interfere with or take time away from the performance of the duties of this post.

In particular, the status of Council member shall be incompatible with that of:

a) Members of the Legislative Assemblies of the Spanish Autonomous Communities.

b) Members of the Government of the Nation and of the Government Councils of the Autonomous Communities.

c) Members of other Constitutional Organs.

d) Certain posts in the Public Administrations, understanding by such those included in Act 25/1983, of 26th December, on Incompatibility and Senior Management Posts.

e) Elected members of Local Authorities.

2. Those public officials who are Council members shall remain in active service when they have so chosen; otherwise, said officials shall be classified in the category of special services.

Section Five. Organs

The Council organs are as follows:

a) The Plenary Assembly.

b) The Standing Committee.

c) The Working Committees.

d) The Chairman.

e) The Vice-Chairmen.

f) The Secretary General.

Section Six. Collegiate Organs

1. The Council Plenary Assembly is comprised of all of the members of the Council, presided by the Chairman and assisted by the Secretary General, and functions in accordance with the following regulations:

a) The Plenary Assembly shall meet in an ordinary session at least once a month, notwithstanding the fact that extraordinary meetings may be held as stipulated by the Council itself in plenary session.

ECONOMIC AND SOCIAL COUNCIL

b) In order for the Plenary Assembly to be validly constituted, the presence is required of at least thirty-one of its members, in addition to the Chairman and the Secretary General or their legal substitutes. At the second call to meeting, the presence of only twenty members shall be required in addition to the Chairman and the Secretary General or their legal substitutes.

c) The Plenary Assembly shall adopt its resolutions by absolute majority of those attending, and tie votes shall be broken by the Chairman's use of his casting vote.

d) Council views shall be expressed under the heading of "Opinion of the Economic and Social Council" and shall not be binding. Opinions shall be issued by the Plenary Assembly or, if warranted, by the Standing Committee, when the latter has been delegated this function by the former.

Opinions shall be documented separately, highlighting the background information, the assessment made and the conclusions, and shall be signed by the Secretary General and approved by the Council Chairman. Any dissenting votes shall necessarily be attached to said opinions.

2. The Standing Committee, presided by the Chairman and assisted by the Secretary General, shall be comprised of six members representing the First Group, six representing the Second Group and six from the Third Group, who shall be designated by and from among the members of the Plenary Assembly at the proposal of each one of the groups.

3. The Council Plenary Assembly may set up Committees or working groups on a permanent basis or for specific matters. In any event, the composition of such committees shall respect proportionality and the presence of the various groups represented in the Council.

Section Seven. Functions

1. The Council functions are to:

1.1. Issue mandatory opinions on:

a) National Bills and Draft Royal Legislative Decrees regulating socio-economic and labour matters and Draft Royal Decrees deemed by the Government to be especially significant in regulating the above-mentioned matters, yet expressly excluding the National Draft Budget.

b) Bills or Draft administrative provisions affecting the organization, powers or functioning of the Council.

c) Removal of the Chairman and the Secretary General of the Council.

d) Any other matter which, by express precept of a Law, is to be consulted with the Council.

1.2. Issue opinions on matters which are voluntarily submitted for consultation by the Government of the Nation or its members.

1.3. Draft studies or reports at the petition of the Government or its members, or at its own initiative, which in the context of the

economic and social interests of the social partners are related to the following subjects: Economy, Tax Regulations, Labour Relations, Employment and Social Security, Social Affairs, Agriculture and Fisheries, Education and Culture, Health and Consumer Affairs, Environment, Transport and Communications, Industry and Energy, Housing, Regional Development, the Single European Market and Development Cooperation.

1.4. Regulate the system for the internal organization and running of the Council in accordance with the stipulations of the present Act.

1.5. Draft and submit annually to the Government, within the first five months of every year, a Report dealing with its viewpoints on the socio-economic and labour situation of the nation.

2. Through its Chairman, the Council may request additional information on matters that are submitted to it for consultation on a mandatory or facultative basis, provided that this information is required in order for it to issue its opinion.

3. a) The Council is to issue its opinion within the term stipulated by the Government or the Ministers, as the case may be, in the order for transfer of the dossier or in the request for consultation.

b) The time limit for issue of the opinion shall not be less than 15 days, unless the Government states that the matter is urgent, in which case the time limit may not be less than 10 days.

c) Once the corresponding time limit has lapsed with no opinion having been issued, said opinion will be understood as having been issued.

Section Eight. Sole Person Organs

1. The functions of the Chairman are to:

a) Manage Council activity and represent it.

b) Call meetings of the Plenary Assembly and of the Standing Committee, preside them and moderate the course of the debates.

c) Set the agenda for the meetings of the Plenary Assembly and the Standing Committee taking into account the petitions made by their members as provided for in their Regulations on organization and internal functioning.

d) Endorse the minutes, order the publication of resolutions and take charge of and ensure compliance with said resolutions.

e) Any other functions granted to him by the present Act or which are inherent to his status as Chairman and are thus stipulated in the Regulations approved by the Council.

2. The functions of the Secretary General are to:

a) Manage administratively and technically the various Council services and ensure that its organs act in accordance with the principles of economy, celerity and efficacy.

b) Attend the meetings of the Council Plenary Assembly and Standing Committee with the right to speak but not to vote.



ECONOMIC AND SOCIAL COUNCIL

- c) Draft the minutes of the meetings, authorize them with his signature and the approval of the Chairman and expedite the resolutions adopted.
- d) Safeguard Council documents.
- e) Issue certifications of minutes, resolutions, opinions, dissenting votes and other documents entrusted to him for safekeeping, with the approval of the Chairman.
- f) Act as Head of the personnel working for the Council.
- g) Any other functions which are inherent to his status as Secretary.

Section Nine. Economic-Financial and Recruitment System

1. In order to comply with its aims, the Economic and Social Council shall have available to it those financial resources allocated for said purposes by the National Budget, and shall enjoy the tax system of the latter.

2. The Council shall draw up its annual draft budget proposal, which shall be approved by the Plenary Assembly and sent, through its Chairman, to the Minister of Labour and Social Security, which, on the basis of said proposal shall draw up the Draft Entity Budget which it will submit to the Ministry of Economy and Finance for the intended purposes.

3. Recruitment by the Economic and Social Council shall be in line with the principles of advertising, competition, safeguarding of the public interest and standardized conduct in the public sector, established in the Second Temporary Provision of the General Regulations on Recruitment by the State, under the system of private Law.

4. Personnel of the Economic and Social Council shall be bound to it by a relation subject to labour law. Selection of personnel, except for management, shall be through public competitive examination in accordance with systems based on the principles of merit and ability.

Section Ten. Budget, Control and Accounting System

1. The Council budget shall form part of the National Budget for the purposes of its consolidation. Credits against its expense budget shall be limited.

2. The budget structure of the Council shall be determined through the Ministry of Economy and Finance and in all cases shall conform to the structure applicable for the State Public Sector.

3. Variations in the Council budget shall be authorized as follows:

- a) By the Ministry of Economy and Finance, provided that these variations do not affect subsidies from the National Budget and that their amount does not exceed 5% of the budget.
- b) By the Government, in the remainder of circumstances.

4. The Council Chairman may authorize credit variations in the various items of the budget. Notification shall be given of resolutions adopted by the Chairman to the Plenary Assembly of the Council, as well as to the Ministry of Economy and Finance, through the Ministry of Labour and Social Security.

5. The Council is subject to financial control, carried out by the Ministry of Economy and Finance, by means of periodical verification and audits, notwithstanding the control which corresponds to the Court of Auditors.

6. The Council is subject to the system of public accounting as provided for in Title VI of the revised Text of the General Budget Act (1).

TEMPORARY PROVISION

The Economic and Social Council shall be constituted within the term of four months from the time the present Act comes into force.

FINAL PROVISIONS

One. The present Act shall come into force the day after its publication in the Spanish “Official State Gazette”.

Two. The Government is authorized, at the proposal of the Ministry of Labour and Social Security and the Ministry of Economy and Finance to promulgate any provisions required for the development of the present Act.

Three. The Ministry of Economy and Finance shall make any required modifications to the budget for the authorization of the credits needed for compliance with the stipulations of the present Act.

Consequently,

I hereby order all Spaniards, private individuals and authorities alike, to observe and enforce this Act.

Dated in Madrid on 17th June 1991.

Juan Carlos
King of Spain

The Prime Minister

Felipe González Márquez

(1) This precept has been added to by Act 31/1991, of 30th December (Spanish Official State Gazette of 31st December), on the National Budget for 1992 (section 109).