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Organic Law 5/2005, of November 17, on National Defense.

State Headquarters
«BOE» no. 276, of November 18, 2005 Reference: BOE-A-2005-18933

CONSOLIDATED TEXT
Last modified: no modifications

JUAN CARLOS I, KING OF SPAIN

All those who were present saw and understood.

Know: That the Cortes Generales have approved and I come to sanction the following organic law.

STATEMENT OF MOTIVES

Today the world is undergoing profound changes that have obvious consequences in the structure, organization and functions of the Armies. Spain must accommodate these transformations, to ensure its own security and defense and to contribute to peace and to improve the international order.

Since the promulgation in 1980 of the Organic Law on Basic Criteria of National Defense and Military Organization, partially modified in 1984, the international frame of reference and Spanish society itself have profoundly changed without fundamentally altering the organizational model. of our Armed Forces.

The new recruitment of our Armies, the disappearance of compulsory military service and the implementation of a model of professional Armed Forces are such relevant changes that they demand organic Defense legislation adapted to them.

The strategic scenario has seen the disappearance of the block politics that led the cold war and the emergence of globalization and a new framework in international relations. At the same time, along with the traditional risks and threats to peace, stability and security, others are emerging, such as transnational terrorism with a willingness and capacity to inflict damage indiscriminately.

Conventional wars are on the decline, but armed conflicts are proliferating which, both because of their causes and their effects, have notable implications beyond the place where they occur. Today, in addition to a basic right and a need of individuals and societies, security is a challenge, and making it effective requires the concurrence of the Defense as one of the necessary means to achieve it, together with the defense of rights rights, the fight for the eradication of poverty and development cooperation, which also contribute to this end.

In the field of security and defense, the interdependence between States is considerable, which is why they are grouped into organizations that promote, develop and increase levels of stability, such as the United Nations Organization and the Organization for Security and European Cooperation. Since 1980 Spain has been

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incorporated into the North Atlantic Treaty Organization and the Western European Union. In addition, the European Constitution, recently ratified in a referendum by our country, establishes the bases for building a genuine common security and defense policy within the framework of the European Union. Our strategy must be based on a multilateral system of actions and initiatives, based on the recognition that the Security Council of the United Nations has the fundamental responsibility for the maintenance of international peace and security.

We must also take into account the technological revolution of recent decades, some of whose innovations come from the Defense environment itself or have found application in it.

The international projection of Spain and our defense policy in foreign action as a whole means that, since the end of the 20th century, our Armed Forces have been acting outside our borders as observers, interposition forces, peacekeeping and of humanitarian aid.

This circumstance requires the inclusion in the Law of missions that were not expressly included in the previous regulations, rigorous approaches regarding respect for the international legality of said operations and even new ones regarding their control.

In relation to missions abroad, the Cortes Generales, which represent national sovereignty, must have a greater participation and leadership. The Law submits government decisions for debate and specifically regulates the conditions that must be met.

The President of the Government is responsible for managing crisis situations that affect Defense, as is the direction of the armed conflict. To assist you, the National Defense Council is created, an advisory, coordinating and consultative body whose composition is adjusted to the needs of each circumstance. The Minister of Defense is entrusted with the execution and development of defense policy.

In order to increase the effectiveness of the Armed Forces, the Law specifies their organization with criteria that make possible the joint action of the Armies. Unlike the previous one, which assigned missions to each Army, this one considers the Armed Forces as a single entity that integrates the different forms of action of its components and that enables the optimal use of their capabilities, without the former seeing their role diminished. specificity.

An organization is now established that clearly differentiates the organic and operational structure; the first, under the responsibility of the Army Chiefs of Staff, in charge of preparing the Force; the second, whose command falls to the Chief of Defense Staff, in charge of its use and established for the development of joint and combined action. On the other hand, the territorial organization is left without effect, although for purposes of representation and collaboration with the Public Administrations an institutional representation is maintained.

The organization of the Armed Forces, integrated into the Ministry of Defense, responds to the principles of hierarchy, discipline, unity and efficiency. The Law establishes the mandate to regulate the essential rules for the fulfillment of duty by those who make up the military organization. These rules, inspired by the tradition of our Armies and Navy, have constituted its guide of conduct and, in this way, now take on a renewed importance. Their regulatory development will allow them to be duly updated.

Regarding the resources of the National Defense, its contribution will be supported by the principle of gradual and proportionate contribution to the situation that must be faced.

To achieve a progressive response to crisis situations or armed conflicts, an appropriate and effective organization is required, with a sufficient degree of stability, which integrates the contribution of all kinds of resources necessary for civil preparedness and in which the Defense Council will also intervene. National.

The disappearance of compulsory military service requires that the right and duty that Spaniards have to defend Spain be more relevantly foreseen, as established in article 30 of the Constitution, for which the possibility of incorporating citizens, as reservists, to the Armed Forces.

This Law is enacted in accordance with the provisions of article 8.2 and in exercise of the competence provided for in article 149.1.4.ª of the Constitution.

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PRELIMINARY TITLE

Object

Article *1. Object of the Law.*

This Organic Law regulates national defense and establishes the bases of the military organization in accordance with the principles established in the Constitution.

Article *2. Purpose of the defense policy.*

The purpose of defense policy is to protect the whole of Spanish society, its Constitution, the higher values, principles and institutions enshrined in it, the social and democratic State of law, the full exercise of rights and freedoms , and of the guarantee, independence and territorial integrity of Spain.

Likewise, its objective is to contribute to the preservation of international peace and security, within the framework of the commitments contracted by the Kingdom of Spain.

TITLE I

Of the attributions of the powers of the State

Article 3. The *Crown.*

The King is in charge of the supreme command of the Armed Forces and the other functions that in matters of defense is conferred by the Constitution and the rest of the legal system.

Article *4. The Cortes Generales.*

1. Cortes Generales are responsible for:

a) Grant prior authorizations to give the consent of the State to be bound by international treaties and conventions, as well as the remaining authorizations provided for in article 94.1.b) of the Constitution. b) Approve the laws related to defense and the
corresponding budget credits. c) Discuss the general lines of defense policy. For these purposes, the Government
will present the corresponding initiatives, particularly the recruitment and modernization plans. d) Control the action of the Government in defense matters. e) Agree on the authorization referred to in article 63.3 of
the Constitution.

2. In particular, it is up to the Congress of Deputies to authorize, in advance, the participation of the Armed Forces in missions outside the national territory, in accordance with the provisions of this Law.

Article 5. The *Government.*

It is the responsibility of the Government to determine the defense policy and ensure its execution, as well as direct the military Administration and agree on the participation of the Armed Forces in missions outside the national territory.

Article 6. The *President of the Government.*

1. The President of the Government is responsible for the direction of defense policy and the determination of its objectives, the management of crisis situations that affect defense and the strategic direction of military operations in the event of the use of force.
2. The President of the Government exercises his authority to order, coordinate and direct the actions of the Armed Forces as well as order their employment.
3. Likewise, within the framework of the defense policy, it is specifically responsible for:

a) Formulate the National Defense Directive, in which the general lines of the defense policy and the guidelines for its development will be established.

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b) Define and approve the major objectives and strategic approaches, as well as formulate the directives for foreign negotiations that affect defense policy. c) Determine the application of the objectives and basic lines of action of the Armed Forces, both nationally and in terms of participation in international organizations of which Spain is a member. d) Order the missions of the Armed Forces. e) Exercise the other functions attributed to it by legal and regulatory provisions.

Article 7. The *Minister of Defense.*

1. The Minister of Defence, in addition to the powers assigned to him by the regulatory laws of the Government and the General State Administration, is responsible for the development and execution of the defense policy.

2. Likewise and specifically, it corresponds to:

a) Assist the President of the Government in the strategic management of military operations. b) Direct the actions of the Armed Forces under the authority of the President of the Government.

c) Determine and execute military policy. d) Direct, as a member of the Government, the military Administration and develop the guidelines and regulatory provisions adopted by the Council of Ministers.

e) Exercise the other functions attributed to it by legal and regulatory provisions.

Article *8. National Defense Council.*

1. The National Defense Council is the collegiate, coordinating, advisory and advisory body of the President of the Government in defense matters. At the initiative of the President of the Government, it may function in full and as an executive council.

2. The National Defense Council in plenary session will inform the King, at the proposal of the President of the goverment. When the King attends the meetings of the Council, he will preside over it.

3. It will assist the President of the Government in the direction of armed conflicts and in the management of crisis situations that affect defense and, in general, in the other functions provided for in article 6 of this Law.

4. The Council is also responsible for issuing a report on the broad guidelines of defense policy and offering the Government proposals on matters related to defense that, affecting various Ministries, require a joint proposal.

5. The full National Defense Council will have the following composition:

a) The President of the Government, who will preside over it. b) The Vice Presidents of the Government. c) The Ministers of Defence, the Interior, Foreign Affairs and Cooperation and Economy and Treasury.

d) The Chief of Defense Staff. e) The Chiefs of Staff of the Army, the Navy and the Air Force. f) The Secretary of State Director of the National Intelligence Center. g) The Director of the Cabinet of the Presidency of the Government.

6. The Executive Council will have the following composition:

a) The President of the Government, who will preside over it. b) The Ministers of Defence, the Interior and Foreign Affairs and Cooperation. c) The Chief of Defense Staff. d) The Secretary of State Director of the National Intelligence Center. e) The Director of the Cabinet of the Presidency of the Government.

7. The rest of the members of the Government may be summoned, depending on the nature of the matters that are dealt with, both to the Plenary Session and to the Executive Council. Other members of the Plenary Council may also be summoned to the Executive Council.

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8. Other authorities or positions of the General State Administration may also be summoned to the National Defense Council.

The authorities or positions of the Autonomous Communities and of the Cities with Statute of Autonomy must be summoned when deemed appropriate. Local government authorities or those persons whose contribution is considered relevant may also be summoned.

9. For the exercise of its functions, the Council will have the Interministerial Commission Defense, attached to the Ministry of Defense, as a permanent working body.

10. The operating regime of the National Defense Council and the composition and functions of the Interministerial Defense Commission, will be determined by regulation.

TITLE II

Organization

CHAPTER I

Ministry of Defence

Article *9. Ministry of Defence.*

1. The Ministry of Defense is the department of the General State Administration responsible for the preparation, development and execution of the defense policy determined by the Government, obtaining and managing the human and material resources for it, as well as as the performance of whatever tasks are necessary for the fulfillment of the missions assigned to the Armed Forces, in accordance with the provisions of this Law.

2. The Armed Forces are integrated into the Ministry of Defense, so that the organization as a whole acquires the necessary structure to enable the effective execution of defense policy and military policy.

CHAPTER II

Organization of the Armed Forces

Article *10. Armed Forces.*

1. The Armed Forces are the essential element of defense and constitute a single entity that is conceived as an integrating set of the specific forms of action of each of its components: the Army, the Navy and the Air Force.

2. The organization of the Armed Forces must enable the fulfillment of the missions entrusted to it in the specific, joint, and combined framework, so as to ensure the effectiveness in the execution of military operations.

3. The members of the Armed Forces will be integrated or assigned to different bodies, in accordance with the tasks they must perform. These bodies may be specific to the Armies or common to the Armed Forces.

Article *11. Basic organization.*

1. The Armed Forces are organized into two structures: an organic one, for the preparation of the force, and an operational one, for its use in the missions assigned to it.

2. The organic structure will enable the generation of the operational structure. It will be established by means of functionality criteria based on the means and forms of action of the Army, the Navy and the Air Force, and on a homogeneous organization of these.

3. The operational structure, established for the development of joint and combined action, will be organized in accordance with the principle of unity of command and the criteria necessary to achieve maximum operational capacity.

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4. In order to achieve the functioning of both structures with criteria of efficiency and economy of means, the services whose tasks should not be exclusive to an Army will be unified and common logistics and the acquisition of supplies will be centrally organized.
resources.

Article 12. The *Defense Staff.*

1. The Defense Staff is the auxiliary command and support body for the Chief of the Defense Staff. It will be organized in such a way that it allows the definition and development of military strategy, the planning and conduct of military operations and the exercise of the rest of its powers.

2. The Chief of the Defense Staff will exercise command of the Defense Staff, whose organization will have a Headquarters and a subordinate Operations Command. When any circumstance prevents him from temporarily exercising his position, he will be replaced in his duties, accidentally, by the most senior Chief of Staff of the Army, Navy or Air Force.

3. In particular, it corresponds to the Chief of Defense Staff:

a) The function of military advice to the President of the Government and the Minister of Defense, which will assist in the strategic direction of military operations.
b) Exercise, under the authority of the Minister of Defense, the command of the structure operations of the Armed Forces and the strategic management of military operations.
c) Ensure the operational effectiveness of the Armed Forces. To this end, it may supervise the preparation of the force units and assess their operational readiness.
d) Propose to the Minister of Defense the adequate military capabilities to execute the military policy. e)
Prepare and define the military strategy. f)
Establish the rules of joint action of the Armed Forces and contribute to the definition of the rules of combined action of multinational forces.
g) By delegation of the Minister of Defense, may exercise military representation before international Security and Defense organizations.

4. The Defense Chief of Staff will coordinate the Army, Navy and Air Force Chiefs of Staff, to whom he will issue guidelines to guide the preparation of the Force, in order to ensure effectiveness. operations of the Armed Forces.

Article 13. The *Army, the Navy and the Air Force.*

1. The Army, the Navy and the Air Force make up the organic structure of the Armed Forces and provide the basic capabilities for its operational structure.
Each of them is composed of:

a) The Headquarters, made up of the set of bodies that encompass the human and material resources necessary to assist the Chief of Staff in the exercise of command over their respective Army. b) The Force, established as
the set of human and material means that are grouped and organized with the main task of preparing to carry out military operations. Within its scope, the training, preparation and evaluation of its units will be carried out and, in peacetime, the specific permanent missions assigned to it will be carried out.

c) Force Support, understood as the set of bodies responsible for the direction, management, administration and control of human, material and financial resources assigned to each of the Armies. Within its scope, the maintenance of the Force will be directed and controlled, and the logistical support activities that make the life and operation of the units, centers and organizations possible will be carried out.

2. The Chiefs of Staff of the Army, the Navy and the Air Force will exercise, under the authority of the Minister of Defence, the command of their respective Army.
When any circumstance prevents them from temporarily holding the position, they will be replaced in

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their functions, respectively, accidentally, the oldest active duty General Officer of those who are subordinate to him in his organic structure.

3. In particular, it corresponds to the Chiefs of Staff:

a) Develop the organization, in accordance with the provisions of the Ministry of Defense, as well as instruct, train, administer, provide logistical support and ensure the motivation, discipline and well-being of their respective Army to maintain maximum efficiency at all times, according to the resources allocated.

b) Develop and execute the missions that, in peacetime, are permanently assigned. c) Guarantee the

adequate preparation of the Force of its respective Army for its availability to the operational structure of the Armed Forces. d) Advise the Chief of Defense Staff on the

use of his Army units, as well as on the development and formulation of the specific aspects of their respective capacities. e) Ensure the general interests of the military personnel under their command, protecting

in particular the regime of rights and freedoms derived from the constitutional norm and its legal development.

CHAPTER III

military jurisdiction

Article *14. Nature and functions.*

The organs of the military jurisdiction, a member of the State Judiciary, base their organization and operation on the principle of jurisdictional unity and administer justice in a strictly military sphere and, where appropriate, in matters established by the declaration of the state of siege. , in accordance with the Constitution and the provisions of criminal, procedural and military disciplinary laws.

TITLE III

Missions of the Armed Forces and their parliamentary control

CHAPTER I

Armed Forces Missions

Article *15. Missions.*

1. The Armed Forces, in accordance with article 8.1 of the Constitution, are assigned the mission of guaranteeing the sovereignty and independence of Spain, defending its territorial integrity and constitutional order.

2. The Armed Forces contribute militarily to the security and defense of Spain and its allies, within the framework of the international organizations of which Spain is a part, as well as to the maintenance of peace, stability and humanitarian aid.

3. The Armed Forces, together with State Institutions and Public Administrations, must preserve the safety and well-being of citizens in cases of serious risk, catastrophe, calamity or other public needs, in accordance with the provisions of current legislation.

4. The Armed Forces may also carry out evacuation missions for Spanish residents abroad, when unstable circumstances in a country put their lives or interests at serious risk.

Article *16. Types of operations.*

The fulfillment of the missions of the Armed Forces and the development of their complementary or subsidiary contribution of public interest require carrying out different

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types of operations, both in the national territory and abroad, which can lead to conflict prevention or deterrence actions, peacekeeping, actions in crisis situations and, where appropriate, response to aggression. In particular, operations may consist of:

a) The surveillance of maritime spaces, as a contribution to the action of the State at sea, the surveillance of the airspace and the control of the airspace of national sovereignty and those other activities aimed at guaranteeing the sovereignty and independence of Spain, as well as to protect the life of its population and its interests.

b) Collaboration in international peacekeeping and stabilization operations in those areas where they are affected, the reconstruction of security and administration, as well as the rehabilitation of a specific country, region or area, in accordance with treaties and commitments. established. c) Support to the State Security Forces and Corps in the fight against terrorism and to the institutions and organizations responsible for land, sea and air rescue services, in search and rescue tasks.

d) The military response against attacks carried out using aircraft for terrorist purposes that endanger the lives of the population and their interests. For these purposes, the Government will designate the responsible national Authority and the Armed Forces will establish the pertinent operating procedures.

e) Collaboration with the different public administrations in cases of serious risk, catastrophe, calamity or other public needs, in accordance with the provisions of current legislation.

f) Participation with other national and international organizations to preserve the safety and well-being of Spanish citizens abroad, in accordance with the coordination criteria and assignment of responsibilities established.

Article *17. Authorization of the Congress of Deputies.*

1. To order operations abroad that are not directly related to the defense of Spain or the national interest, the Government will carry out a prior consultation and will obtain the authorization of the Congress of Deputies.

2. In missions abroad that, in accordance with international commitments, require a rapid or immediate response to certain situations, the prior consultation and authorization procedures will be carried out through urgent procedures that allow compliance with said commitments.

3. In the cases provided for in the previous section, when for reasons of utmost urgency it is not possible to carry out prior consultation, the Government will submit to the Congress of Deputies as soon as possible the decision it has adopted for ratification, if applicable.

Article *18. Monitoring of operations.*

The Government will inform the Congress of Deputies periodically, within a period in no case exceeding one year, on the development of the operations of the Armed Forces abroad.

CHAPTER II

Conditions of missions abroad

Article *19. Conditions.*

In order for the Armed Forces to carry out missions abroad that are not directly related to the defense of Spain or the national interest, the following conditions must be met:

a) That they are carried out at the express request of the Government of the State in whose territory they are developed or are authorized in Resolutions of the Security Council of the United Nations or agreed, where appropriate, by international organizations of which Spain is a part, particularly the Union Union or the North Atlantic Treaty Organization (NATO), within the framework of their respective competences.

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b) That they comply with the defensive, humanitarian, stabilization or maintenance and preservation of peace purposes, provided for and ordered by the aforementioned organizations.
c) That they are

in accordance with the Charter of the United Nations and that they do not contradict or violate the principles of conventional international law that Spain has incorporated into its legal system, in accordance with article 96.1 of the Constitution.

TITLE IV

Of the essential rules of behavior of the military

Article *20. Essential rules of behavior of the military.*

1. By law, in accordance with the Constitution, the essential rules that define the behavior of the military will be established, especially discipline, hierarchy, the limits of obedience, as well as the exercise of military command.

2. The Government, through Royal Decree, will also proceed to develop these rules in the Royal Ordinances for the Armed Forces.

Article *21. Disciplinary regime.*

1. The disciplinary regime of the Armed Forces has the purpose of guaranteeing the observance of the essential rules that define the behavior of the military and the legal ordering of the military function. The disciplinary power corresponds to the authorities and commands established in the Organic Law of the Disciplinary Regime of the Armed Forces, without prejudice to the jurisdictional guardianship established in article 24 of the Constitution.

2. Tribunals of Honor in the military field are prohibited.

TITLE V

Contribution to Defense

CHAPTER I

Preparation of resources to contribute to Defense

Article *22. Permanent provision of resources.*

1. The Government will establish the criteria related to the preparation and availability of human and material resources that are not exactly military to meet the needs of National Defense in situations of serious threat or crisis, taking into account the cooperation and coordination mechanisms for their application. between the different public authorities.

2. In times of armed conflict and during the validity of the state of siege, the system of permanent availability of resources will be coordinated by the National Defense Council.

CHAPTER II

Civil Guard

Article *23. Civil Guard.*

The Civil Guard is an armed Institute of a military nature, dependent on the Minister of the Interior in the performance of the functions attributed to him by Organic Law 2/1986, of March 13, on Security Forces and Bodies, and the Minister of Defense in the fulfillment of the military missions entrusted to it.

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Article *24. Missions of a military nature.*

The Government, through Royal Decree, will regulate the military missions referred to in the previous article, applying the conditions and the consultation regime provided for in this Law to missions carried out abroad.

Article *25. Coordination of actions.*

In times of war and during the state of siege, the actions of the Civil Guard will be coordinated by the National Defense Council, reporting in such cases directly to the Minister of Defense, under the terms determined by the President of the Government.

CHAPTER III

National Intelligence Center

Article *26. National Intelligence Center.*

The National Intelligence Center will contribute to obtaining, evaluating and interpreting the information necessary to prevent and avoid risks or threats that affect the independence and integrity of Spain, national interests and the stability of the rule of law and its institutions.

CHAPTER IV

National Police Corps

Article *27. National Police Corps.*

The National Police Corps, in the cases provided for in article 25, will be coordinated by the National Defense Council, reporting to the Minister of the Interior with the scope determined by the President of the Government.

CHAPTER V

Contribution of national resources

Article *28. System of cooperation in matters of Civil Protection.*

In times of armed conflict and during the validity of the state of siege, the National Defense Council will coordinate the actions of the cooperation system in matters of Civil Protection. For these purposes, the permanent action of the public powers will take into account the guidelines issued by the Council.

Article *29. Contribution of other resources.*

The contribution of other resources from the company will materialize as follows:

a) In accordance with the right and duty that Spaniards have to defend Spain, as established in article 30 of the Constitution, the additional incorporation of citizens to the Defense will be based on the principle of gradual and proportionate contribution to the threat situation that needs to be faced, in the manner established by law, through the incorporation into the Armed Forces of the reservists deemed necessary.

b) The contribution of material resources to the various defense needs will be made through the competent inter-ministerial body. Its composition and functions will be established by regulation.

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Article *30. Areas of interest for the defense.*

In areas of the national territory considered to be of interest to defense, in which security zones for military or civilian installations have been or are being created, declared to be of military interest, as well as in those in which the requirements of defense or interest of the State so advise, may limit the rights over property owned by nationals and foreigners located in them, in accordance with what is determined by law.

Article *31. Culture of Defense.*

The Ministry of Defense will promote the development of a defense culture so that Spanish society knows, values and identifies with its history and with the supportive and effective effort through which the Armed Forces safeguard national interests. Likewise, the rest of the public powers will contribute to the achievement of this end.

Single **repealing provision .** *Regulatory repeal.*

1. The following are repealed:

a) Organic Law 6/1980, of July 1, which regulates the Basic Criteria of the National Defense and the Military Organization, modified by the Organic Law 1/1984, of 5 January.

b) Organic Law 13/1991, of December 20, on Military Service.

2. Similarly, all provisions of equal or lower rank are repealed oppose the provisions of this Organic Law.

First **final provision .** *Regulatory development.*

The Government and the Minister of Defense are empowered, within the scope of their respective powers, to issue as many provisions as are necessary for the development and application of this Organic Law.

Second final provision. Competence **title** *and precepts with the character of ordinary law.*

1. This Organic Law is issued by virtue of the exclusive competence of the State in matters of Defense and Armed Forces, established in article 149.1.4.ª and in relation to the provisions of article 8.2 and article 97, all of them of the Constitution.

2. Title III and articles 20.2, 22 and 24 to 31 have the character of ordinary law.

Third final provision. Legislative **mandate .**

The Government, within three months, must submit to the Congress of Deputies a bill regulating the fundamental rights of professional soldiers, which will include the creation of the Military Life Observatory.

Therefore,

I command all Spaniards, individuals and authorities, to keep and make keep this organic law.

Madrid, November 17, 2005.

JOHN CARLOS R.

The president of the Government,
JOSE LUIS RODRIGUEZ ZAPATERO

This consolidated text has legal value.
More information at info@boe.es