

GENERAL POLITICAL STRUCTURE OF CHILE

Form of government

The political organization of Chile has varied over time since the country's first attempt at a Constitution called "Regulations to Arrange the Provisional Executive Authority of Chile of 1811." These Regulations established a three-person Executive government and a one-chamber Congress.

After a few attempts to establish a federal system in our country, the "Constitution of 1828" was enacted upon approval by Congress on August 6. It was drafted by Deputy Melchor de Santiago Concha Cerda and the alternate Minister of the Interior, José Joaquín de Mora.

Generally speaking, the Constitution establishes clear independence between the three branches of government and determines that the Republic will be governed by a President who is elected by the indirect vote of the electorate. The Legislative Branch consists of two houses: the Senate and the Chamber of Deputies. This branch of government is empowered to appoint Ministers to the Supreme Court of Justice, to set the budget, to eliminate and create job posts, to approve promotions among the higher ranks of the army and ministers abroad, etc.

After several administrations, including those of Manuel Bulnes, Manuel Montt, Aníbal Pinto, Domingo Santa María, José Manuel Balmaceda, Jorge Montt, Germán Riesco, and Pedro Montt, during the presidency of Arturo Alessandri Palma, the Constitution of 1925 was drafted and approved in July of that year through a national referendum. Essentially, it granted the executive broad administrative powers, expanded the presidential term from five to six years and made presidential election by direct vote; it established the separation of church and state and guaranteed freedom of worship and conscience; it ensured public freedoms and individual rights; it ensured the protection of labor, industry, and social welfare; and it created the Elections Verification Tribunal and the Central Bank. Some of the most important changes made by this Constitution included: placement of the government's budget into the hands of the executive; amendments made during the administration of Eduardo Frei Montalva (1964-1970), including the imposition of social limits on the right to private property, which paved the way for the nationalization of copper and land reform; suffrage for illiterates; and reducing the voting age to 18.

Subsequently, after the administration of Salvador Allende (1970-1973), on September 11, 1973 a *coup d'état* took place which marked a break with Chile's Constitutional order. A military junta was established, headed up by General Augusto Pinochet.

It was in this context and after a period of government by executive decree that a Commission was appointed to study a new Constitution. This resulted in a Preliminary Draft Constitution which was submitted for its first revision to the Council of State in 1978, chaired by former President Alessandri Rodríguez. The Commission delivered its report in July of 1980. Then a second review was conducted by the governing Junta headed by General Augusto Pinochet. This revised the Institutional Timetable of the military junta and led to approval of the "Constitution of 1980," a text that consisted of 120 permanent Articles and 29 temporary ones. On September 11 of that year this version was submitted to a referendum and the new Constitution was enacted on October 21. It went into force partially on March 11, 1981.

Essentially, the Constitution of 1980 established a Presidential political system, with the State participating in the economy in a subsidiary way, while there was strong protection for individual rights in economic matters and for private property. A bill of individual rights was established.

According to that Constitution, which is still in force, Chile is a democratic republic and its State is unitary while the territory is divided into regions. Its administration is functionally and territorially decentralized. Thus the country is divided into 13 regions: Tarapacá, Antofagasta, Atacama, Coquimbo, Valparaíso, Metropolitan Santiago, Libertador General Bernardo O'Higgins, El Maule, El Biobío, La Araucanía, Los Lagos, Aysén del General Carlos Ibáñez del Campo, and Magallanes and the Chilean Antarctic, as well as 51 provinces and 342 municipalities.

The system of government and its regional administration are structured as follows:

Government within the region falls to the Intendant, as representative of the President of the Republic. Regional administration falls to the regional government, comprised of the Intendant as executive and the Regional Council, which serves as the executive's decision-making, nominative, and oversight body.

Administrative functions are supported by the Ministerial Regional Secretariats, which are decentralized agencies of the Ministries subordinated to the Intendant at the regional level, most notably the Regional Secretariat for Planning and Coordination.

On the provincial level the government is run by the Governor, a subordinate of the Intendant. His office also serves as a decentralized body of the Intendant's office, the executive of the regional government. There is also a Provincial Economic and Social Council, chaired by the Governor, which serves as a representative consultative entity.

Municipal administration is conducted by the Municipality, comprised of the Mayor as supreme authority and the Council, chaired by the Mayor, which serves as his decision-making, nominative, and oversight body. Both are elected by popular vote every four years.

The Municipality has Units to help it carry out its functions, such as the Municipal Secretariat for Planning and Coordination.

Each Municipality also has an Economic and Social Council, which is a representative consultative entity of the social agencies.

The Legislative Branch

The National Congress of Chile makes up the Legislative Branch of the country. It is comprised of a Chamber of Deputies and a Senate.

The main objectives of the National Congress include: to represent the citizenry, to confer with the President of the Republic on the adoption of laws, and to oversee the actions of government.

The 120 Deputies and the 48 Senators who make up the Congress represent the people who elected them and reflect their various positions, ideas, and sensitivities. This is the institution in which democracy thrives and has its greatest impact.

The first Congress was established on July 4, 1811 in Santiago, once the 1810 government Junta convened it. It was a single chamber legislature comprised of 41 Deputies. Its

main charge was to draft the “Regulations to Arrange the Provisional Executive Authority of Chile.”

At present, the National Congress is governed by the 1980 Constitution and the Organic Constitutional Law N°18.918. Unlike the other branches of government, this institution has its seat in the city of Valparaíso in Region V of our country.

The Judicial Branch

The Judicial Branch, one of the three branches of government alongside the Executive and Legislative Branches, is in charge of applying the law. It is empowered to hear civil and criminal trials, to adjudicate them, and carry out the judicial decision. Its highest jurisdictional body is the Supreme Court. This tribunal oversees correct application of the legislation in force and also exercises administrative and disciplinary control over all other courts and judges in the country.

The Courts of Appeals, which are in charge of a given juridical territory as defined by law, serve as courts of second instance or review to oversee and monitor the courts located within their jurisdictions.

The administration of justice is currently conducted by more than 350 judges who specialize in various areas of law, such as juvenile, labor, criminal, and civil law. The New System of Criminal Trials was implemented throughout the country in June of 2005.

This means that the number of judges in the criminal area alone will increase to 809. They will serve in Courts of Constitutional Rights, which are charged with protecting the fundamental rights of victims and defendants, and in Oral Criminal Trial Courts, which determine the guilt or innocence of defendants.

The Public Ministry, headed by the National Prosecutor, is the agency charged by law with conducting investigations within the new Criminal Justice System.

This agency, created by Constitutional Organic Law as an autonomous entity, defends the interests of society, particularly the victims when warranted. It is responsible for initiating

criminal proceedings before the Criminal Trial Courts. To this end, once the system is fully implemented, the Public Ministry will have 642 prosecutors nationally.

In order to prosecute crimes more efficiently, the Public Ministry was designed to include specialized units (drug trafficking, money laundering, economic crimes, etc.) which will enable it to approach crime with more technical expertise than is currently used.

The counterpart to the Public Ministry within the new criminal justice system is the Office of the Public Defender. It is headed up by the National Public Defender, appointed by the President of the Republic, and is supported by regional offices. This institution involves the public and private sectors in its mission and will have an inter-institutional National Council with representatives of the Executive Branch, the Judicial Branch, and various academic and civil society institutions.

The Ministry of Justice

The Ministry of Justice is another actor within the Judicial Branch. It serves as a liaison between the Executive and Judicial Branches.

Among its principal functions is the critical study of constitutional standards and civil, criminal, commercial, and procedural legislation in order to propose needed reforms to the President of the Republic.

The Ministry also advises the President on the appointment of judges, judicial officers, and other employees of the judicial branch, and ensures that the courts are organized and functioning well.

Among the more relevant areas that it oversees are the establishment of sector policies, plans, and programs, particularly regarding legal defense of the State's interests, penitentiary treatment and rehabilitation of inmates, as well as legal organization of the family and identification of persons.

The Ministry is also in charge of protecting children and youth whose rights are violated and of overseeing juveniles accused of breaking the law. It also designs mechanisms whereby people receive legal assistance when they cannot afford it.

The Ministry of Justice receives cooperation from the following related agencies in order to carry out its mission: National Civil Registry and Identification Service, National Youth and Child Service, Guard Service of Chile, Forensic Service, National Bankruptcy Prosecutor, and the four Legal Assistance Corporations.