

ORGANIC LAW 6/1985, OF 1 JULY, ON THE JUDICIARY¹.

JUAN CARLOS,
KING OF SPAIN

To all to whom these presents shall come,

Let it be known: That the Parliament has approved and I have duly sanctioned the following Organic Law.

EXPLANATORY BACKGROUND

Article 1 of the Constitution states that Spain constitutes a social and democratic state of law, advocating as pre-eminent values of its legal system, freedom, justice, equality and political pluralism.

The State of Law, since it fundamentally implies the separation of powers of the State, the rule of law as the expression of popular sovereignty, the subjection of all public powers to the Constitution and the legal system and effective procedural guarantee of fundamental rights and public freedoms, requires the existence of bodies which, being institutionally characterised by their independence, are constitutionally placed to enable them to enforce and apply impartially those rules expressing the popular will, to subject all public authorities to compliance with the Law, control the legality of administrative actions and to offer all persons effective protection in the exercise of their legitimate interests and rights.

The Judiciary comprises a group of bodies responsible for undertaking these tasks as defined in Title VI of the Spanish Constitution, which outlines it as one of the three powers of the State, exclusively responsible for the exercise of jurisdictional powers in all types of proceedings, judging and enforcing judgments according to the rules of jurisdiction and procedure established by law.

Article 122 of the Spanish Constitution states that the Organic Law of the Judiciary shall determine the constitution, operation and government of the Courts and Tribunals, the legal status of professional judges and senior judges who form a single body, and personnel in the service of the Justice Authority, in addition to the statute and system of incompatibilities of members of the General Council of the Judiciary and their duties, in particular in matters of appointments, promotions, inspection and disciplinary regime.

The requirements of constitutional development necessitated approval of an Organic Law which would regulate the selection, composition and creation of the General Council of the Judiciary even before proceeding to the essential organisation of the Judiciary. This Organic Law, in many of its aspects is provisional in nature and explicitly recognises its transitory provisions which refer to the future Organic Law of the Judiciary.

The present Organic Law therefore has a dual purpose, that of bringing to an end what has to date been a provisional situation in the organisation and operation of the Judiciary, and to fulfil the constitutional mandate.

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II

At present, the Judiciary is regulated by the Provisional Law on the organisation of the Judiciary of 15 September 1870, by the Additional Law to the Organic Law of the Judiciary of 1882, by the Basic Law for the reform of Municipal Justice of 19 July 1944, and by numerous legal and regulatory provisions which were subsequently issued intermittently on the same matter.

These regulations and standards are not adapted to the requirements of Spanish society today. Since the, at that time, recently acquired liberal regime of separation of powers, which promulgated those laws, a century later there has been a transition to a Social and Democratic State of Law which is the political organisation of a Nation desirous of establishing a developed democratic society, in which public powers are required to promote conditions which will ensure that freedom and equality of the individual and of groups shall be real and effective, removing any obstacles which would prevent or hinder its fulfilment, and facilitating participation of all citizens in political, economic and social life. The fulfilment of these constitutional objectives necessitates a Judiciary adapted to a predominantly industrial and urban society, which is designed to adjust to changes in the territorial distribution of its population, in the social division of work and in the ethical conceptions of its citizens.

To this should be added the notable transformation which has occurred as a result of the Constitution in the territorial distribution of power. The existence of Autonomous Communities, to which the Constitution and the Statutes have assigned authority and powers in respect of the Administration of Justice, required current legislation to be amended in this respect. Both the Constitution and the Autonomous Statutes establish the existence of High Courts of Justice which, according to our *Magna Carta* will be the highest judicial organisation within the territorial scope of the Autonomous Community. The inevitable and unavoidable need to adjust organisation of the Judiciary to these constitutional and statutory provisions is therefore a further imperative justifying approval of the present Organic Law.

Finally, it should be pointed out that this is just one of the regulations which, together with several others, is required to modernise the Spanish legislative body –both substantive and procedural – and adjust it to legal economic and social reality. This will require a laborious task of reform of the Spanish legislation, part of which has been addressed already, for the purpose of achieving a harmonious whole, characterised by its standardisation.

III

The main aspects of the Law are expressed in its preliminary title. It contains the principles enshrined in the Constitution. The first of these is independence, which constitutes the essential characteristic of the Judiciary as such. Its requirements are implemented through specific mandates which define with precise rigour its exact content. Thus the independence required in exercising jurisdictional duties extends to all, including jurisdictional bodies themselves, which implies the impossibility of judges or courts correcting, unless in the case of a legally valid appeal, the actions of those of lower rank and also excludes the possibility of circulars or instructions of a general nature which relate to the application or interpretation of the law.

If one characteristic were to define the manner in which the Organic Law regulates the independence of the Judiciary it would be its comprehensiveness. A comprehensiveness deriving from the obligation imposed on public authorities and private individuals to respect the independence of the Judiciary and the absolute removal from the legal statute of Judges and Magistrates of any possible interference from other State powers, so that to the classic guarantee -constitutionally recognised- of immutability is added a regulation, in virtue of which all authority of the Executive Power over the application of the organic statute thereof is excluded. As a result, the professional service of Judges shall be fully governed and regulated by the rule, or shall depend exclusively on the decisions which are adopted within the discretionary scope, defined by the statutes, of the General Council of the Judiciary.

The importance which the all encompassing nature of judicial independence brings to our legal system should be assessed in the light of the total jurisdictional power conferred by the Law. The Courts, in effect, control without exception regulatory power and administrative activity, so that no action of the Executive Power shall not be subject to auditing by an independent Power and subject exclusively to the rule of law. It should be agreed that the State of Law proclaimed in the Constitution attains, as an organisation governed by law in its expression of the will of the

people and as a system in which the government of men is substituted by the rule of law, the maximum potentiality possible.

There are other corollaries to judicial independence in the guise of preliminary precepts specifying their various perspectives. Thus the unit of jurisdiction which, as consequence of the constitutional mandate, is absolute, except for the competence of military jurisdiction which is restricted to a strictly military scope regulated by law and to cases of a state of siege; the recognised power of Judges and Courts to require the collaboration of private individuals and public authorities; and finally the regulation of proceedings and the guarantees these contain for cases of expropriation of recognised rights in respect of the Public Authorities in a final judgment.

IV

One of the characteristics of the Spanish Constitution is that of overcoming the merely programmatic nature formerly assigned to constitutional regulations, assuming direct and immediate legal effectiveness and, in summary, the position of indisputable supremacy it holds in the legal system. This makes the Spanish Constitution a directly applicable rule with prevalence over any other.

These characteristics derive from the actual text of the Constitution. Firstly from article 9.1, which states that "citizens and public authorities are subject to the Constitution and to remaining regulations". Other constitutional provisions, such as those derogating any regulations in opposition to the constitutional text or the provision regulating procedures for the declaration of unconstitutionality, complete the effect of the aforementioned paragraph 1 of article 9, and close the system which makes the *Magna Carta* the supreme rule of our system with all the legal effects inherent therein.

The preliminary Title of the present Organic Law singularises in the Judiciary the general link with article 9.1 of the Constitution, stipulating that laws and regulations should be applied according to constitutional precepts and principles and in conformance with their interpretation by the Constitutional Court. Thus the importance of the values proposed by the Constitution as higher values is ratified, in addition to that of all the remaining general principles of law deriving therefrom, as source of Law, which fully confers on the legal system the characteristics of comprehensiveness and consistency required of it and ensures the effectiveness of the constitutional precepts and the uniformity in their interpretation.

In addition, it stipulates that the question of unconstitutionality shall only be raised when it is not possible to accommodate the controversial regulation to the constitutional mandate via interpretative means. In doing so, the link of the judge with the basic regulation is reinforced and this subjection introduces a dynamic element of active protection, transcending mere passive respect for the supreme Law.

The value of the Constitution as a supreme rule of the system is also manifested in other complementary precepts. Thus, the infringement of a constitutional precept is configured as sufficient motive for a cassation appeal and the direct applicability of fundamental rights is expressly mentioned, explicitly protecting the essential content safeguarded by the Constitution.

V

The State is territorially organised, for judicial purposes, in municipal districts, administrative areas, provinces and Autonomous Communities, presided over by Magistrates or Justices of the Peace, First Instance Criminal Courts, Contentious-Administrative, Labour, Penitentiary Surveillance and Juvenile Courts, Provincial Courts and High Courts of Justice. The National Court and the Supreme Court exercise jurisdictional power over all national territory.

The law contains important innovations on this point. A more democratised procedure for the appointment of Magistrates; the District Courts are abolished and become Courts of First Instance or Enquiry; single bench Contentious Administrative Courts are created, as well as Labour courts, the latter substituting the Employment Tribunal; authorities in civil matters are attributed to the Provincial Courts and finally the sphere of the National Court is amended,

creating a Labour Chamber and maintaining the Criminal and Contentious –administrative Chambers.

Nevertheless, the most relevant amendments are those deriving from the territorial division of the State into Autonomous Communities as stipulated in the Constitution and which, logically, affect the territorial organisation of the Judiciary.

The Organic Law complies on this point with constitutional and statutory requirements. Therefore, the most relevant results of this are the creation of the High Courts of Justice which are the highest echelon of judicial organisation in an Autonomous Community, which implies the disappearance of the Territorial Courts existing until now as supra-provincial jurisdictional bodies of a non-national scope.

To this should be added the regulation of the recognised participation of the Autonomous Communities in the definition of territorial boundaries as well as the authorities assigned to them with reference to the management of material means.

With this new judicial organisation, in need of development by the future Law on Judicial Staffing and Boundaries - which the Government undertakes to submit to the General Courts within the term of one year – and which aims to provide the Spanish people with a network of judicial bodies which, while functioning as far as possible in an immediate manner, especially guarantees effective compliance with the fundamental rights recognised in article 24 of the Spanish Constitution, particularly the right to a public trial without undue delay and with all guarantees.

VI

In order to ensure the independence of the Judiciary, the Constitution creates the General Council of the Judiciary, to which it has entrusted its governance, and refers to the Organic Law the creation of the regulations contained in its articles 122.2 and 3.

In compliance with these mandates, this Organic Law recognises in the General Council of the Judiciary all the attributes required for the application of the organic statute of Judges, in particular in matters of appointments, promotions, inspection and discipline of the Judiciary regime. The Law perceives the faculties of inspection of the Courts and Tribunals not as a merely repressive activity but rather as a legal authority, incorporating elements for the perfection and improvement of the organisation under inspection.

For the election of the twelve members of the General Council of the Judiciary which, in accordance with article 122.3 of the Spanish Constitution should be selected from “among Judges and Senior Judges of all judicial categories”, the Law, based on a democratic principle which assumes that it is the governing body of a State Power, and recalling that all State powers emanate from the people and given the nature of the *Cortes Generales* (Parliament) as representative of the sovereign people, it assigns these *Cortes* the election of these judicial members of the General Council of the Judiciary. The requirement of a definite majority of three fifths – on a par with the Constitution’s requirements when electing other members –ensures not only that its full consistency with the general nature of the democratic system, but also the convergence of various forces, thus preventing the formation of a General Council of the Judiciary responding to a specific and circumstantial parliamentary majority. The law also regulates the statute of the members of the Council and the composition and attributes of the bodies which make up the organisation. It also reinforces the majority required for the appointment proposal of the President of the Supreme Court and of the General Council of the Judiciary, as well as of other institutional offices. Finally, the Contentious-administrative Chamber of the Supreme Court is accorded authority to hear appeals lodged against the acts and provisions issued by the Plenary Session or the Disciplinary Committee of the General Council of the Judiciary which are not subject to administrative actions.

It remains to add that the entry into force of this Organic law shall mean the repeal of the Law on this same issue, 1/1980 of 10 January, of which its provisional nature has been already mentioned.

The Organic Law amends the designation system of Governing Chambers, partially introducing selective methods. This is advisable due to the governmental and non jurisdictional functions these chambers are required to fulfil, in addition to the new competencies attributed to them

under the terms of the present Organic Law. In these circumstances, given that the Governing Chambers' activity fundamentally affects Judges and does not directly influence private individuals, an open, partial, majority election system has been adopted in which personal knowledge of the selectors and the elected plays an important role.

The materialisation of the principles of pluralism and participation with which it is sought to imbue the governance of the General Council of the Judiciary has led to considerable amendments in the present regulation of the law of professional association which article 127.1 of the Constitution recognises in Judges, Senior Judges and Public Prosecutors. The provisional system of associative freedom which has existed to date contains unjustified restrictions which have been removed. As a result, this Organic Law recognises the right of free professional association with the sole limitation being that political activities or having links with political parties or unions are prohibited. Professional associations shall remain validly constituted from the moment they are recorded in the Register to be kept for this purpose by the General Council of the Judiciary.

VII

The practical implementation of the constitutionally recognised right to effective judicial protection requires as an indispensable adjunct that all jurisdictional bodies be provided with corresponding incumbents, namely Judges or Senior Judges. Serious harm can be done to legal security, in the right to a trial without delay, when the Courts and Tribunals are vacant for prolonged periods of time, with the corresponding accumulation of cases pending and delay in the Administration of Justice. This has led to the need to use substitutions or extensions of jurisdiction which are particularly inconvenient in those territories in which there is a progressive and growing volume of work. This problem therefore needs to be urgently addressed.

Facts have shown that the classic mechanisms for selection of judicial personnel do not provide Spanish society with a sufficient number of Judges and Senior Judges. It is therefore necessary to use other complementary means. For this purpose, the Organic Law provides for renowned lawyers to access the judicial profession. This will firstly cover needs, filling vacancies which otherwise could not be taken up; secondly, and of prime importance, is the incorporation in the judicial function of those who have demonstrated, in other legal fields, their proven skills and competence; finally, it enables a process of osmosis between the judicial service and the remainder of the legal universe which is bound to occur when those who have practised law in other sectors are incorporated in the judiciary, bringing different perspectives and awareness to an office characterised by its conceptual wealth and diversity of approach. The requirements, and the fact that this system will provide the same guarantees of objective and rigorous selection that govern the classic path of free public competition, will ensure not only the selector's impartiality, but also the skill and capacity of the person selected. In short, this is simply a means of incorporating into our selection procedure mechanisms which have not only long been successfully used in various countries, but also within our own system, specifically in the case of the Supreme Court.

Nevertheless, the basic system for becoming a judge continues to be a free public competition between law graduates, completed by successful conclusion of a course in the Centre for Judicial Studies and supported by practical work in a court.

Access to the category of Senior Judge is verified in the following proportions. Of every four vacant posts, two shall be filled by Judges occupying the first place in the scale within the category; the third shall be appointed following selective tests and specialisation in the contentious-administrative and labour sectors undertaken by professional Judges, and the fourth by means of public competition entered by lawyers with recognised experience and competence and who have practised their profession for a minimum of ten years.

In respect of the system of provision of assignment or destination, the basic criterion for Courts, Provincial Courts and High Courts of Justice continues to be that of seniority. This does not, however, rule out, as a system of promotion in the judicial service, specialisation, which on one hand, is essential in view of the magnitude and complexity of our current legislation and on the other, appropriate in that it introduces elements of motivation with a view to ongoing training of Judges and Senior Judges.

In addition, the judicial profession is regulated by the basic criterion of its validation in line with the rules common to all civil servants, maintaining only certain peculiarities which derive from its specific function.

VIII

The first four Volumes of Law regulate the organisation, governance and system of the bodies which make up the Judiciary and its governing body. Volumes V and VI establish a basic regulatory framework for those other institutions, groups of public servants and professionals who without being part of the Judiciary collaborate in various ways with that body, ensuring the effectiveness of its protection in the terms established in the Constitution.

The Law thus refers initially to the Public Prosecutor's Office whose aim is to promote the action of justice in defence of legality, of citizens' rights and the public interest, and to monitor the independence of the Courts and fulfilment of social interest as stated in article 124 of the Constitution.

The Law also establishes the duties of Lawyers and *Procuradores*, (*the latter having a role with no real equivalent in the English legal system, ie a lawyer who acts as legal representative of parties before the courts, but whose work is restricted to serving notices, communications, instructions etc. which the defending legal counsel is not empowered to do*) who are responsible for the management and defence and representation of the parties, as it is their task to guarantee legal aid to citizens in proceedings, in a compulsory manner when appropriate, and, in any case, as the right to legal defence and assistance as expressly recognised by the Constitution.

The Police in service of the Court, as an institution cooperating with and assisting the Administration of Justice, is strengthened by establishing units functionally dependent on the judicial authorities and the Public Prosecution Office.

The Law also regulates personnel serving in the Administration of Justice which includes Clerks of the Court, Forensic Physicians, Court Officials, Administrative Assistants and Agents, all of whom are public servants who, in the course of their duties, assist and collaborate with the Courts and Tribunals.

The duties of Clerks of the Court are given special regulation in Title IV, Volume III, as they have judicial authority to authenticate documents as well as organising and directing proceedings, thus strengthening their procedural management functions.

Together with the basic provisions on the structure and functions of skilled officials, auxiliary staff and agents, in addition to Forensic Physicians, the Law establishes that other experts may serve the Administration of Justice constituting to this effect service bodies and scales, or under employment contract. In this way it aims to guarantee and strengthen personnel in the service of judicial bodies and their increasingly necessary specialisation.

IX

The Administration of Justice is organised in the interest of citizens. The Constitution requires and this Organic Law establishes the principles of oral hearing and publicity, and for this reason emphasis is placed on the development of the requisite immediation of procedural laws, and alongside this for the first time it regulates patrimonial liability of the State which may arise from judicial error or abnormal operation of the Administration of Justice, without prejudice to the individual liability of Judges and Senior Judges of a civil, criminal and disciplinary nature, complementing in this way a fully liable Judiciary.

X

The additional, transitory and final provisions of the Law regulate the problems of its synchronic application, making it possible to adapt the current judicial organisation to that established by this law and expressly anticipating further laws which will develop and fully implement the new organisation of the Judiciary.

PRELIMINARY TITLE

The Judiciary and exercise of jurisdictional power

Article 1.

Justice emanates from the people and is administered in the name of the King by the Judges and Senior Judges of the Judiciary, who are independent, immutable, responsible and subject only to the Constitution and the rule of law.

Article 2.

1. The exercise of jurisdictional power, judging and ensuring enforcement of judgments, corresponds exclusively to the Courts and Tribunals determined in the laws and international treaties.

2. The Courts and Tribunals shall exercise no functions other than those indicated in the previous paragraph, those of the Civil Registry and other duties expressly attributed to them by law in the guarantee of any rights.

Article 3.

1. Jurisdiction is unique and is exercised by the Courts and Tribunals stipulated in this law, without prejudice to the jurisdictional powers of other bodies as recognised by the Constitution.

2. The authority of military jurisdiction shall be limited to a strictly military scope in respect of the actions defined as military offences by the Military Criminal Code and to cases of state of siege, in accordance with the declaration of said state and the Organic Law regulating said state, without prejudice to the terms of article 9 section 2 of this Law.

Article 4.

Jurisdiction extends to all persons all matters and to all Spanish territory in the form established in the Constitution and the laws.

Article 5.

1. The Constitution is the supreme rule of the legal system and binds all Judges and Courts, who shall interpret and apply the laws and regulations according to constitutional precepts and principles, pursuant to the interpretation of the same resulting from judgments issued by the Constitutional Court in all types of procedures.

2. When a Court considers in proceedings that a rule with the rank of law applicable to the case on which the validity of the judgment rests, may be contrary to the Constitution, it shall raise the question before the Constitutional Court, pursuant to the terms of the Organic Law.

3. The question of unconstitutionality shall be raised when it is not possible to adapt the rule to the constitutional regulation.

4. In all cases which, according to the law, lead to a cassation appeal it will suffice to provide as a basis for the offence infringement of the constitutional precept. In this case the authority to decide the appeal shall always correspond to the Supreme Court, irrespective of the issue, the applicable law and the jurisdictional system.

Article 6.

The Judges and the Courts shall not apply regulations or any other provision contrary to the Constitution, the law or the principle of normative hierarchy.

Article 7.

1. The rights and freedoms recognised in Chapter Two of Title I of the Constitution, fully bind all judges and courts and shall be guaranteed under the effective protection of said judges and courts.
2. In particular, the rights established in article 53.2 of the Constitution shall be recognised in all cases, in conformance with their constitutionally declared content, without the possibility of judgements restricting, diminishing, or not applying said content.
3. The Courts and Tribunals shall protect the legitimate rights and interests, both individual and collective, and under no circumstances shall they be deprived of the right to defence. For the defence of collective rights the legitimisation of corporations, associations and groups affected, or of those which are legally qualified for their defence and promotion, shall be recognised.

Article 8.

The Courts control regulatory power and legality of administrative action and its subjection to the purposes which justify it.

Article 9.

1. The Courts and Tribunals shall exercise jurisdiction exclusively in those cases attributed by this or any other law.
2. The Civil Courts and Tribunals shall hear, in addition to proceedings proper thereto, all those cases which are not attributed to any other jurisdictional system.

In this civil system, it shall correspond the military jurisdiction to prevent testamentary or intestate proceedings of members of the Armed Forces who, in times of war, died in battle or at sea, such proceedings being restricted to the practice of essential assistance in order to enable burial of the deceased and formation of the inventory and provisional securing of their assets, always informing the competent civil judicial authority.

3. The Criminal Courts shall be responsible for hearing criminal cases and trials, with the exception of those corresponding to military jurisdiction.
4. The Contentious-administrative Courts shall hear claims arising in respect of the action of the Public Authorities subject to Administrative Law, with the general provisions of lower rank than law and with Legislative Decrees in the terms established in Article 82.6 of the Constitution, pursuant to the terms of the Law of that jurisdiction. It shall also hear appeals against the inactivity of the Authorities and against their material actions which constitute action without legal warrant.

They shall also hear claims arising in respect of patrimonial liability of public authorities and personnel in their service, irrespective of the type of activity or relation from which they arise. If private individuals were involved in the damages, the claimant shall also file his/her claim against this jurisdictional system against said individuals. They shall also hear liability claims when the interested party acts directly against the Authority's insurance entity, as well as against the respective Authority.

This jurisdictional sector shall also be competent in the case of claims of patrimonial liability directed additionally against private or public persons or indirectly liable entities.

5. The courts of the labour jurisdiction shall hear claims filed within the scope of the labour branch of law in both individual and collective conflicts, in addition to claims in matters of Social Security or against the State when it is held liable under employment legislation.
6. Jurisdiction is non-deferrable. Courts shall officially note the lack of jurisdiction and shall resolve the issue in a hearing of the parties and the Public Prosecutor. In this case this decision shall be on the basis of and shall be carried out always indicating the jurisdictional system deemed competent.

Article 10.

1. Only for prejudicial effects shall each jurisdictional order be able to hear cases which are not exclusively attributed to them.

2. Notwithstanding, the existence of a prejudicial criminal question which is essential for the due decision or which directly conditions the content thereof, shall determine the suspension of the procedure until it is resolved by the pertinent criminal courts, except in those cases established under law.

Article 11.

1. All procedures shall respect the rules of good faith. Taking of evidence which has, either directly or indirectly, infringed fundamental rights or freedoms, shall be inadmissible.

2. The Courts and Tribunals shall justifiably reject petitions, incidents and exceptions formulated in flagrant abuse of the law or which entail legal or procedural fraud.

3. The Courts and Tribunals, pursuant to the principle of effective protection established in article 24 of the Constitution, shall always rule in the case of claims filed before them, and shall only dismiss them on formal grounds when there is an irremediable defect or they cannot be remedied through the legally established procedure.

Article 12.

1. In the exercise of jurisdictional power, Judges and Senior Judges are independent with respect to all judicial and governing bodies of the Judiciary.

2. Judges and Courts shall be unable to correct the application or interpretation of the legal system carried out by those of lower rank in the judicial hierarchy, except when they deliver justice in virtue of appeals, as established under the law.

3. Nor shall the Judges and Courts, governing bodies thereof or the General Council of the Judiciary be permitted to issue instructions of either a general or specific nature to officials of a lower rank on the application or interpretation of the legal system carried out in the exercise of their jurisdictional duties.

Article 13.

The independence of Judges and Senior Judges must be respected by all.

Article 14.

1. Judges and Senior Judges who consider that their independence is questioned or disrupted in any way shall inform the General Council of the Judiciary, also informing the competent Judge or Court of the facts in order to continue the appropriate proceedings, without prejudice to their carrying out themselves the enquiries or actions which are strictly indispensable to ensure the action of justice and restore legal order.

2. The Public Prosecutor, independently or as requested by said judges shall take the pertinent action to defend judicial independence.

Article 15.

Judges and Senior Judges shall not be dismissed, suspended, transferred or retired except on the grounds and with the guarantees established in this Law.

Article 16.

1. Judges and Senior Judges shall criminally and civilly respond in the cases and in the manner determined under law, and in a disciplinary manner pursuant to the terms of this Law.

2. Courts of Honour are prohibited in the Administration of Justice.

Article 17.

1. All private and public persons and entities are required to collaborate in the manner established under law, as required by Judges and Courts in the course of proceedings and in

the execution of the results, with the exceptions established in the Constitution and the laws, and without prejudice to the reimbursement of expenses and payment of remuneration due, as proceeds under law.

2. The Public Administrative Authorities and civil servants, Corporations and all public and private entities, in addition to private individuals shall respect and, if appropriate, comply with the judgments and other judicial decisions which have become final or which are enforceable according to law.

Article 18.

1. Judgments shall only be rendered without effect in virtue of the appeals established under law.

2. Judgments shall be enforced in their own terms. If enforcement is impossible, the Judge or the Court shall take the necessary steps to ensure the utmost effectiveness of enforceability, and shall establish in any case the compensation due for the part in which the judgment cannot be fully accomplished. Only on the grounds of public usefulness or social interest declared by the Government, may recognised rights be expropriated in respect of the Public Authority in a final judgment prior to its enforcement. In this case the Judge or the Court to whom the enforcement corresponds shall be the sole entity authorised to indicate through incidental means the corresponding compensation.

3. The provisions in this Article are understood to be without prejudice to the right of pardon, the exercise of which, in accordance with the Constitution and the laws, corresponds to the King.

Article 19.

1. Citizens with Spanish nationality shall have the power to exercise a class action in the cases and forms established in law.

2. In addition, they shall be permitted to participate in the Administration of Justice by forming Juries, in the form and in respect of the criminal procedures determined under law; in the customary and traditional Courts and in other cases provided in this Law.

3. The *Tribunal de las Aguas de la Vega Valenciana* (the ancient Water Tribunal of the Orchard of Valencia) is recognised as a customary and traditional court.

4. The *Consejo de Hombres Buenos de Murcia* (the Council of the Good Men of Murcia) is recognised as a customary and traditional court.

Article 20.

1. Justice shall be free in the cases established under the law.

2. A free justice system shall be regulated by law which makes effective the right declared in articles 24 and 119 of the Constitution in cases of insufficient resources for filing a court action.

3. Guarantees or deposits shall not be required when, due to their inappropriateness, they prevent the exercise of a class action, which shall always be free.

VOLUME I**THE EXTENSION AND LIMITS OF JURISDICTION AND THE STAFFING AND ORGANISATION OF THE COURTS AND TRIBUNALS****TITLE I****The extension and limits of jurisdiction****Article 21.**

1. The Spanish Courts and Tribunals shall hear trials arising in Spanish territory between Spaniards, between foreigners, and between Spaniards and foreigners according to the terms of this Law and the international treaties conventions to which Spain is signatory.
2. Cases of immunity from jurisdiction and enforcement established by the rules of International Public Law are excepted.

Article 22.

In the civil system the Spanish Courts and Tribunals shall have authority:

1.º Exclusively, in matters of rights in rem and tenancy of property in Spain; in matters of incorporation, validity, nullity or dissolution of companies or legal persons having their domicile in Spanish territory in addition, with respect to agreements and decisions of their bodies; in matters of validity or invalidity of registrations entered in a Spanish Register; in matters of registrations or validity of patents and other rights subject to filing or registration when their filing or registration has been applied for or effected in Spain; in matters of recognition and enforcement in Spanish territory of judgments and arbitration decisions issued abroad.

2.º As a general rule, when the parties have submitted expressly or tacitly to the Spanish Courts and Tribunals and when the respondent is domiciled in Spain.

3.º In the absence of the foregoing criteria, and in matters of declaration of absence or death, when the absent or deceased person had their last domicile in Spanish territory; in matters of incapacitation and protective measures for the person or for the assets of minors or the incapacitated, if their customary residence is in Spain; in matters of personal relations and patrimonial relations between spouses, matrimonial annulment, separation and divorce, when both spouses have their habitual residence in Spain at the time of the claim or when the claimant is Spanish and has their habitual residence in Spain at the time of the claim, and when both spouses have Spanish nationality, irrespective of their place of residence, provided that the petition is lodged by mutual consent or one with the consent of the other; in matters of filial and paternal relations, when the child has its habitual residence in Spain at the time of the claim or the claimant is Spanish, or resides habitually in Spain; for the constitution of adoption, when the adopter or the adoptee is Spanish or resides habitually in Spain; in matters of maintenance when the recipient thereof resides habitually in Spanish territory; in matters of contractual obligations, when these have been instigated or should be fulfilled in Spain; in matters of extra-contractual obligations, when the action from which they derive has occurred in Spanish territory, or the perpetrator of the damage and the victim have their common habitual residence in Spain; in actions relating to moveable property, if these are located in Spanish territory at the time of the claim; in matters of inheritance when the testator had their last domicile in Spanish territory or possesses real estate in Spain.

4.º In addition, in matters of consumers' contracts, when the purchaser has his/her residence in Spain in the case of sale by instalment of corporate moveable objects or loans destined to finance the acquisition; and in the case of any other contract for provision of services or relating to movable goods when the celebration of the contract was preceded by personal offer or publicity carried out in Spain or the consumer had carried out on Spanish territory the actions required to enter into the contract; in matters of insurance when the insured party and the insurer have their domicile in Spain, and in legal actions relating to the use of a

branch, agency or trade establishment when this is located in Spanish territory. In insolvency matters this shall be according to the regulatory law.

5.º In the case of provisional measures or guarantee in respect of persons or assets located in Spanish territory and which should be complied with in Spain.

Article 23.

1. In the criminal system Spanish jurisdiction shall be responsible for hearing cases of offences or crimes committed on Spanish territory or committed on board Spanish ships or aeroplanes without prejudice to the terms of international treaties of which Spain is a part.

2. In addition, it shall hear cases established under Spanish criminal laws as crimes, even though they have been committed outside national territory, provided that those criminally responsible were Spanish, or foreigners who had acquired Spanish nationality subsequent to the crime and when the following requirements are fulfilled:

a) That the act is punishable in the place of enforcement, unless in virtue of an international treaty or a regulatory act of an international organisation to which Spain is signatory, this requirement is not necessary.

b) That the injured party or the Public Prosecutor file a complaint or action before the Spanish courts.

c) That the offender has not been acquitted, pardoned or sanctioned abroad or in this last case, has not completed their sentence. If they have only completed it partly it shall be taken into account as proportionally reduced.

3. Spanish jurisdiction shall hear the cases committed by Spaniards or foreigners outside national territory when they are susceptible to consideration according to Spanish criminal law as one of the following crimes:

a) Treason or action against the peace or independence of the State.

b) Against the title of the Crown, his Consort, Heir or Regent.

c) Rebellion and sedition.

d) Falsification of royal signature or stamps, the State seal, signatures of Ministers and public or official seals.

e) Counterfeiting of Spanish currency and its issue.

f) Any other falsification which directly prejudices the credit or interests of the State and introduction or issue of the counterfeited material.

g) Attack on the authorities or Spanish public servants.

h) Those perpetrated in the exercise of their duties by Spanish public servants residing abroad and crimes against the Spanish Public Authority.

i) Those relating to currency controls.

4. Spanish jurisdiction shall also be competent to hear facts committed by Spaniards or foreigners outside national territory susceptible to consideration according to Spanish criminal law as one of the following crimes:

a) Genocide.

b) Terrorism.

c) Piracy and illegal hijacking of aeroplanes.

d) Counterfeiting of foreign currency.

e) Crimes relating to prostitution and corruption of minors or the incapacitated.

f) Illegal trafficking of psychotropic, toxic and narcotic drugs.

g) Those relating to female genital mutilation provided that those responsible are located in Spain.

h) And any other which according to international treaties or conventions should be prosecuted in Spain.

5. In the cases of articles 3 and 4 the provisions of point c) section 2 of this Article shall be applicable.

Article 24.

In the contentious-administrative system Spanish jurisdiction shall be competent in any cause when the claim lodged refers to provisions of a general nature or to actions of the Spanish Administrative Authorities. It shall also hear cases brought in respect of actions of Spanish public authorities in accordance with the provisions of the law.

Article 25.

In the labour system, the Courts and Tribunals shall be competent:

1.º In matters of rights and obligations deriving from an employment contract when the services have been provided in Spain or when the contract has been held on Spanish territory; when the respondent is domiciled in Spanish territory or has an agency, branch, delegation or any other representation in Spain; when the employee and employer have Spanish nationality, irrespective of the place of provision of the services or the place where the contract was formalised; and in addition, in the case of waybills, if the contract was preceded by an offer received in Spain by a Spanish employee.

2.º In matters of control over the legality of collective agreements valid in Spain, and claims deriving from collective employment conflicts arising in Spanish territory.

3.º In Social Security claims against Spanish bodies or those which have their domicile, agency, delegation or any other representation in Spain.

TITLE II

Staffing and territorial organisation

CHAPTER I

THE COURTS AND TRIBUNALS

Article 26.

The exercise of jurisdictional power is attributed to the following courts and Tribunals:

- Magistrate's Court.
- Courts of First Instance and Enquiry, Commercial, of Violence against Women, Criminal, Contentious-administrative, Labour, Juvenile and Penitentiary Surveillance Courts.
- Provincial Courts
- High Courts of Justice.
- National Court.
- Supreme Court.

Article 27.

1. In Court Chambers in which there are two or more Sections, these shall be designated by ordinal number.

2. In towns or cities with two or more Courts of the same jurisdictional order and the same class, they shall be designated by cardinal numbers.

Article 28.

Each Chamber or Section of the Courts shall have one or more Court Offices and each Court only one.

Article 29.

1. The staff of Courts and Tribunals shall be established by Law. Staffing shall be reviewed every five years, following a report of the General Council of the Judiciary, in order to adjust these to new requirements.

2. The review of the Courts and Tribunals staff may be instigated by the Autonomous Communities with authority in matters of Justice in order to adapt it to the needs of its territorial scope.

CHAPTER II

JUDICIAL TERRITORIAL DIVISIONS

Article 30.

The State is organised territorially in judicial terms into municipalities, districts, provinces and Autonomous Communities.

Article 31.

The municipality corresponds to the administrative boundary with the same name.

Article 32.

1. The district is a territorial unit comprising one or more adjoining municipalities which are part of the same province.

2. Modification of districts shall be made, if appropriate, on the basis of amount of matters, characteristics of the population, means of communication and natural areas.

3. The district may coincide with the provincial boundary.

Article 33.

The province shall be adjusted to territorial limits of administrative boundaries of the same name.

Article 34.

The Autonomous Community shall be the territorial scope of the High Courts of Justice.

Article 35.

1. Judicial boundaries which will determine the territorial demarcation of courts shall be established by law.

2. For this purpose, the Autonomous Communities shall participate in the organisation of judicial demarcation of their respective territories, submitting at the Government's request a proposal for establishing judicial districts.

3. The Ministry of Justice, having heard the proposals of the Autonomous Communities, shall draft a bill informing the General Council of the Judiciary within a term of two months.

4. Having issued the aforementioned report, the Government shall approve the appropriate bill, together with the proposals of the Autonomous Communities and the report of the General Council of the Judiciary which shall be submitted to the Parliament for approval and implementation.

5. Judicial boundaries should be reviewed every five years or beforehand if the circumstances so require, according to the law passed pursuant to the aforementioned procedure.
6. The Autonomous Communities, prior to a report from the General Council of the Judiciary, shall determine under law the capital status of the judicial districts

Article 36.

The creation of Sections and Courts shall correspond the Government when this does not entail any alteration of the judicial boundary, having obligatorily heard the Autonomous Community affected and the General Council of the Judiciary.

Article 37.

1. It corresponds the Ministry of justice or the competent body of the Autonomous Community with authority in matters of Justice to provide Courts and Tribunals with the requisite means for carrying out their duties with independence and effectiveness.
2. To this effect, the General Council of the Judiciary shall annually send the Ministry of Justice or the competent body of the Autonomous Community with authority in Justice matters, a detailed list of the requirements deemed necessary.

TITLE III**Conflicts of jurisdiction and conflicts of questions of competence.****CHAPTER I****CONFLICTS OF JURISDICTION****Article 38.**

1. Conflicts of jurisdiction between the Courts or Tribunals and the Authorities shall be resolved by a professional body, comprising the President of the Supreme Court who shall preside over this body, and five members, two of whom shall be Senior Judges of the Contentious Administrative Chambers, appointed by the Plenary Session of the General Council of the Judiciary and the other three shall be permanent Councillors of State with the Senior Clerk of the Supreme Court acting as Secretary.
2. The President shall always have the casting vote in the event of an impasse or tie.

Article 39.

1. Conflicts of jurisdiction between Courts or Tribunals of any jurisdictional order of ordinary jurisdiction and military judicial bodies, shall be resolved by the Chamber of Jurisdiction Conflicts, comprising the President of the Supreme Court who shall preside over this body and two Senior Judges of the Supreme Court section of the jurisdictional sector in conflict and two Senior Judges of the Military Chamber, all appointed by the Plenary Session of the General Council of the Judiciary. The Secretary of the Supreme Court shall also act as the Secretary of this Chamber.
2. The President shall always have the casting vote in the event of an impasse or draw.

Article 40.

The members of the decision making bodies established in the foregoing Articles shall be renewed on an annual basis.

Article 41.

The proposal, formalities, and decision on jurisdictional conflicts shall be adjusted to the provisions of the law.

CHAPTER II

CONFLICTS OF JURISDICTION

Article 42.

Conflicts of jurisdiction which may occur between Courts or Tribunals of a different jurisdictional system as part of the Judiciary, shall be resolved by a special Chamber of the Supreme Court presided over by the President and comprising two Senior Judges, one for each jurisdictional system in conflict, who shall be appointed annually by the Governing Chamber. The Secretary of the Government of the Supreme Court shall act as Secretary of this special Chamber.

Article 43.

Conflicts of jurisdiction, both positive and negative, may be raised officially or at the party's request or by the Public Prosecutor, while the proceedings have not been concluded by means of a final judgment, unless the conflict refers to the execution of the decision.

Article 44.

The criminal jurisdictional system is always preferential. No Judge or Court shall propose a conflict of jurisdiction to the bodies of said jurisdictional system.

Article 45.

Having raised the issue of jurisdiction in a reasoned brief, in which the legal precepts on which it is based have been expressed, the Judge or the Court, having heard the parties and the Public Prosecutor, shall decide within a common term of ten days, by means of an order, whether to decline to hear the case or to require the court currently hearing said case to refrain from doing so.

Article 46.

1. The restraining requirement shall be accompanied by attestation of the order issued by the requiring Judge or Court, the briefs of the parties and the Public Prosecutor and any other particulars deemed appropriate in order to justify the jurisdiction thereof.

2. The required Party, with a hearing of the Public Prosecutor and parties within a common term of ten days, shall issue an order resolving the issue of competence.

Article 47.

1. If the hearing for the injunction is not attended the required party shall be informed and the parties involved shall submit the matter to the Conflict Chamber with both bodies, if appropriate, retaining the necessary testimonies for fulfilment of section 2 Article 48.

2. The Chamber, having heard the Public Prosecutor within a term not exceeding ten days, shall issue an order within the ten following days- which may not be appealed- The order issued shall resolve the jurisdictional conflict in a definitive manner.

Article 48.

1. From the moment that an order is issued declining jurisdiction or upholding the injunction, and from the moment the required Judge or Court is notified of this fact, the proceedings in the case in question shall be suspended.

2. Nevertheless, suspension shall not affect preventive or preliminary or cautionary actions irrespective of the jurisdictional sectors in possible conflict, which are of an urgent or necessary nature, or which, if they are not adopted, could produce an irreparable breakdown or one which would be difficult to repair. In this case the Judges or Courts shall adopt the appropriate guarantees in order to ensure the rights or interests of the parties or third parties or the public interest.

Article 49.

Decisions issued in the formalisation of jurisdiction conflicts shall not be subject to any appeal, either ordinary or extraordinary.

Article 50.

1. An appeal may be lodged against a final decision, in which the jurisdictional sector indicated in the decision referred to in section 6 of Article 9 declares lack of jurisdiction in proceedings in which the subjects and the claims were the same, within a term of ten days for absence of jurisdiction.

2. The appeal shall be lodged before the court issuing the decision which, having heard the parties entering an appearance, if appropriate, shall submit the proceedings to the Conflict Chamber.

3. The Chamber shall claim from the Court or Tribunal which initially declared its lack of jurisdiction that it remit the proceedings, and the Public Prosecutor having heard the case shall issue an order within the following ten days.

CHAPTER III**QUESTIONS OF JURISDICTION****Article 51.**

1. Questions of jurisdiction between Courts and Tribunals of the same jurisdictional order shall be resolved by the immediately senior body, pursuant to the regulations established under procedural law.

2. The court deemed to be competent shall be declared in the decision stating the lack of jurisdiction.

Article 52.

Questions of jurisdiction between Judges and Courts, where one is subordinate to the other, may not be raised. The higher Judge or Court shall establish in any case and without any subsequent appeal its own competence, having heard the parties and the Public Prosecutor in a common term of ten days. Having issued the opportune decisions, it shall claim the proceedings from the lower Judge or Court or shall submit those it is hearing.

TITLE IV

The composition and attributions of jurisdictional bodies

CHAPTER I

THE SUPREME COURT

Article 53.

The Supreme Court, with its headquarters in the city of Madrid, is the highest court prevailing over all other systems, except in respect of matters of constitutional guarantees. It shall have jurisdiction in the whole of Spain and no other court may hold the title of Supreme.

Article 54.

The Supreme Court shall comprise its President, the Presidents of the Chamber, and the Senior Judges determined by law for each of the Chambers and, if appropriate, Sections in which these may operate.

Article 55.

The Supreme Court shall comprise the following Chambers:

- One: Civil.
- Two: Criminal
- Three: Contentious-administrative.
- Four: Labour
- Five: Military, which shall be governed by its specific legislation and additionally by the present Law, and the system common to the other Supreme Court Chambers.

Article 56.

The Civil Chamber of the Supreme Court shall hear:

1.º Cassation appeals, appeals for review and other extraordinary civil matters as established under law.

2.º Claims for civil liability for actions carried out in the exercise of their duties, directed against the President of the Government, Presidents of the Congress and the Senate, President of the Supreme Court and the General Council of the Judiciary, President of the Constitutional Court, Government members, Deputies and Senators, Members of the General Council of the Judiciary, Senior Judges of the Constitutional Court and the Supreme Court, Presidents of the National Court and any of its Chambers and the High Courts of Justice, the Chief State Public Prosecutor, Prosecutors of the Supreme Court, President and Councillors of the Audit Court, President and Councillors of the Council of State, the Ombudsman, and President and Councillors of an Autonomous Community when so determined by the Statute of Autonomy.

3.º Claims for civil liability lodged against Senior Judges of the National Court or against the High Courts of Justice for actions carried out in the exercise of their duties.

4.º *Abolished*

Article 57.

1. The Criminal Chamber of the Supreme Court shall hear:

1.º Cassation appeals, appeals for review and other extraordinary criminal matters as established under law.

2.º Investigation and indictment of actions against the President of the Government, Presidents of the Congress and the Senate, President of the Supreme Court and the General Council of the Judiciary, President of the Constitutional Court, Government members, Deputies and Senators, Members of the General Council of the Judiciary, Senior Judges of the Constitutional Court and the Supreme Court, President of the National Court and any of its Chambers and the High Courts of Justice, the Chief State Public Prosecutor, Prosecutors of the Supreme Court, President and Councillors of the Audit Court, President and Councillors of the Council of State and the Ombudsman, and President and Councillors in addition to actions which, if appropriate are determined by the Autonomous Statutes.

3.º Investigation and indictment of actions against Senior Judges of the National Court or a High Court of Justice.

2. In actions referred to in numbers two and three of the previous paragraph an examining judge shall be appointed from among the members of the Chamber according to a pre-established order and who shall not form part of the Chamber in prosecuting the case.

Article 58.

The Contentious-administrative Chamber of the Supreme Court shall hear:

One. In single instance, contentious-administrative appeals against actions and administrative provisions of the Council of Ministers, of the Government Delegated Commissions and the General Council of the Judiciary and against the actions and administrative provisions of the competent bodies of the Congress of Deputies and the Senate, of the Constitutional Court, the Audit Court and the Ombudsman in the terms and matters established under Law and those resources which are exceptionally attributed to it under law.

Two. Cassation appeals and review appeals in the terms established under law.

Article 59.

The Labour Chamber of the Supreme Court shall hear Cassation appeals, appeals for review and other extraordinary appeals as established under law in matters pertinent to this jurisdiction.

Article 60.

1. Each of the Chambers of the Supreme Court shall hear any objections lodged against the Senior Judges of said Court and questions of jurisdiction between Courts or Tribunals of the jurisdiction which has no other senior common jurisdiction.

2. For these purposes the Senior Judges against whom actions have been lodged shall not form part of the Chamber.

Article 61.

1. A Chamber comprising the President of the Supreme Court, Chamber Presidents, and the most senior and the most recently appointed Senior Judge of each Chamber shall hear:

1.º Appeals for review of judgments issued in a single instance by the Contentious-administrative Chamber of said Court.

2.º Incidents objecting to the President of the Supreme Court, or the Chamber Presidents, or more than two Senior Judges of a Chamber.

In this case, those directly affected by the objection shall be substituted by those to whom it corresponds.

3.º Civil liability claims directed against Chamber Presidents or against all or the majority of the Senior Judges of a Chamber of said Court for actions carried out in the exercise of their duties.

4.º Investigation and prosecution of claims against Chamber Presidents or against Senior Judges of a Chamber when they consist of all or the majority of the courts over which they preside.

5.º Hearing of claims of declarations of judicial error when this is imputed to a Chamber of the Supreme Court.

6.º Procedures declaring the illegality and consequent dissolution of political parties, pursuant to Organic Law 6/2002 of 27 June on Political Parties.

2. In cases referred to in section 4 above, an examining judge shall be appointed from among the Chamber members according to a pre-established order, who shall not form part of the Chamber hearing the case.

3. A Section comprising the President of the Supreme Court, the President of the Contentious-administrative Chamber and five Senior Judges of the same Chamber, who shall comprise the two most senior and the three most recently appointed judges, shall hear the cassation appeal for the unification of doctrine when the contradiction occurs as a result of judgments issued in a single instance by different Sections of said Chamber.

CHAPTER II

THE NATIONAL COURT

Article 62.

The National Court with headquarters in the city of Madrid, has jurisdiction throughout Spain.

Article 63.

1. The National Court shall comprise its President, the Chamber Presidents and the Senior Judges determined under law for each of its Chambers and Sections.

2. The President of the National Court shall have the consideration of President of the Supreme Court, and is automatically President of all its Chambers.

Article 64.

1. The National Court comprises the following Chambers:

- Appeal
- Criminal
- Contentious Administrative
- Labour.

2. Should it be advisable, given the number of cases, two or more Sections may be created within a Chamber.

Article 64 bis

1. The Appeals Chamber of the National Court shall hear appeals of this kind as established under the Law against judgments of the Criminal Chamber.

2. When it is deemed advisable, due to the perceptible and continued difference in volume of work the Senior Judges of this Court, with the approval of the Governing Chamber, subsequent to a proposal of the President of the Court may be attached either totally or partially to another Chamber of a different order by the General Council of the Judiciary, without this attachment entailing any increased remuneration.

In implementing such attachments seniority on the professional scale, the speciality or the experience of the Senior Judges affected and if possible, their preferences, shall be taken into account.

Article 65.

The Criminal Chamber of the National Court shall hear:

1.º Indictment unless it corresponds in the first instance to the Central Criminal Courts, of actions involving the following offences:

a) Crimes against the Crown, the King's consort, his Heir, Highest Institutions of the Nation and form of Government.

b) Counterfeiting of money, monetary crimes and those relating to currency control.

c) Fraud and scheming to alter the price of items which cause or may cause serious repercussions in the security of trade, the national economy or patrimonial damage in general to persons in the territory of more than one Court.

d) Trafficking of drugs or narcotics, fraud involving food or pharmaceutical or medicinal substances, provided that they are committed by organised bands or groups and have effects in places pertinent to different Courts.

e) Crimes committed outside national territory, when, pursuant to the laws or treaties, it corresponds to them to be heard by the Spanish courts.

In any case the Criminal Chamber of the National Court shall extend its jurisdiction to hearing crimes related to all the aforementioned crimes.

2.º Criminal procedures initiated abroad, enforcement of judgments handed down by foreign Courts or compliance with a prison sentence imposed by foreign courts when, in virtue of an international treaty it corresponds to Spain to continue a legal procedure initiated abroad, the enforcement of a foreign criminal judgment or fulfilment of a sentence or security measure involving deprivation of freedom.

3.º Questions of assignment of jurisdiction deriving from compliance with international treaties to which Spain is a party.

4.º Procedure for enforcement of European Arrest Warrants and judicial procedures for passive extradition, irrespective of the place of residence or where the arrest of the party affected by the procedure took place.

5.º Appeals established under law against judgments and other decisions of the Central Criminal Courts, Central Courts of Enquiry and the Central Juvenile Court.

6.º Appeals against judgements issued by the Central Courts of Penitentiary Surveillance pursuant to the terms of additional provision five.

7.º Any other matter attributed to the court by law.

Article 66.

The Contentious-administrative Chamber of the National Court shall hear:

a) In single instance, contentious administrative appeals against orders and actions of Ministers and Secretaries of State which the law does not attribute to the Central Contentious Administrative Courts.

b) In single instance contentious-administrative appeals against actions issued by the Surveillance Commission on Terrorism Funding Activities. It shall also hear the possible extension of terms proposed by the Surveillance Commission in respect of the measures indicated in Articles 1 and 2 of the Law 12/2003, on prevention and blocking of terrorism funding.

c) Appeals to higher courts established under law against judgments of the Central Contentious-administrative Courts.

d) Appeals not attributed to High Courts of Justice in respect of agreements between Public Authorities and Judgments of the Central Economic –Administrative Court.

e) Questions of jurisdiction which may arise between Central contentious-administrative Courts and any other appeals exceptionally attributed under law.

Article 67.

The Labour Chamber of the National Court shall hear in a single instance:

1.º Special proceedings in claims against collective agreements whose territorial scope of application is greater than the territory of an Autonomous Community.

2.º Proceedings on collective conflicts the resolution of which has an effect within a territorial area greater than that of an Autonomous Community.

Article 68.

1. Each of the Chambers of the National Court shall also hear objections lodged against the Senior Magistrates who are members thereof.

2. For this purpose the Senior Judges against whom the objection is made shall not form part of the Chamber.

Article 69.

A Chamber formed by the President of the National Court, the Presidents of the Chambers and the Senior Judge with most seniority of rank and the most recently appointed one, or a person who respectively substitutes them, shall hear the incidents of objections to the President, the Presidents of the Chamber or more than two Senior Judges of a Chamber.

CHAPTER III

HIGH COURTS OF JUSTICE

Article 70.

The High Court of Justice of the Autonomous Community is the highest judicial body in its area, without prejudice to the jurisdiction corresponding to the Supreme Court.

Article 71.

The High Court of Justice shall take the name of the Autonomous Community in question and shall extend its jurisdiction throughout the territorial area of said Community.

Article 72.

1. The High Court of Justice shall comprise the following Chambers: Civil and Criminal, Contentious-administrative and Social.

2. It will comprise a President who shall also preside over the Civil and Criminal Chambers and shall be Senior Judge of the Supreme Court while holding the office; Chamber Presidents and Senior Magistrates as determined under law for each of the Chambers, and if appropriate, the Sections which may be created within those Chambers.

Article 73.

1. The Civil and Criminal Chamber of the High Court of Justice shall hear as Civil Chamber:

a) Cassation appeals established under law against judgments of civil courts within the Autonomous Community, provided that the appeal is based on infringement of the rules of Civil, Local or Special Law, proper to the Community and when the corresponding Statute of Autonomy has provided for this attribution.

b) Extraordinary review appeal as established by law against judgments delivered by civil courts within the Autonomous Community in matters of Civil, Local or Special Law, proper to the Community if the corresponding Statute of Autonomy has provided for this attribution.

2. This Chamber shall also hear:

a) In single instance, civil liability claims for actions occurring in the exercise of their respective duties against the President and Members of the Governing council of the

Autonomous Community and against members of the legislative Assembly when, according to the Statutes of Autonomy, that power does not correspond to the Supreme Court.

b) In single instance, claims for civil liability, actions committed in the exercise of their duties against all or the majority of Senior Judges of a Provincial court or any of its sections.

c) Questions of jurisdiction between civil courts in the Autonomous Community which do not have any other higher court in common.

3. As Criminal Chamber the Court shall hear:

a) Criminal cases which the Autonomous Statutes reserve for hearing by the High Courts of Justice.

b) Enquiry and judgment of criminal cases against judges, senior judges and members of the Public Prosecution Service for crimes or offences committed in the exercise of their duties in the Autonomous Community, unless this is the remit of the Supreme Court.

c) Hearing appeals against judgments issued in the first instance by Provincial Courts, as well as those established under law.

d) Decisions on questions of jurisdiction between criminal courts in the Autonomous Community which have no other higher court in common.

4. For enquiries into the cases referred to in paragraphs a) and b) of the previous section, an investigator shall be appointed from among the members of the Chamber according to a pre-established order and who shall not form part of the Chamber hearing the case.

5. This court shall also hear questions of jurisdiction between Juvenile Courts of different provinces within the Autonomous Community.

6. In the event that the number of cases warrants it, one or more sections may be created including a Criminal Chamber with its own circumscribed territory in those capital towns which already have High Court Chambers, solely for the purpose of hearing appeals referred to in paragraph c) of section 3 of this Article and those appeals attributed under law to the High Court. The appointments for Senior Judges of these sections, at the proposal of the General Council of the Judiciary, shall fall to those Senior Judges who, having carried out their duties in the criminal system for an immediately preceding period of ten years, have greater seniority.

Article 74.

1. Contentious-administrative Chambers of the High Courts of Justice shall hear in a single instance, appeals lodged in respect of:

a) Actions of local bodies and the Authorities of the Autonomous Communities which are not appropriate to the Contentious-administrative Courts.

b) The general orders issued by Autonomous communities and local bodies.

c) Actions and orders of governing bodies of the legislative assemblies of the Autonomous Communities and autonomous institutions analogous with the Audit Court and the Ombudsman, in matters of staff, administration and patrimonial management.

d) Actions and judgments issued by the Regional and local Economic-administrative Courts which resolve economic-administrative issues.

e) Judgments issued in appeal by the Central Economic-administrative Court in matters of transferred taxation.

f) Actions and orders of the Provincial Electoral Colleges and those of the Autonomous Communities, in addition to contentious-electoral appeals against decisions of the Electoral Colleges on the declaration of elected offices and the proclamation of Presidents of local corporations in the terms of electoral legislation.

g) Agreements between public Authorities whose authority is exercised within the territorial scope of the corresponding Autonomous Community.

h) Prohibition or proposal for modifications of meetings established in the Organic Law regulating the Right to Meeting.

i) Actions and decisions issued by bodies of the General State Authority whose jurisdiction extends throughout national territory and whose organic level is less than that of Minister or Secretary of State, in matters of personnel, special properties and compulsory expropriation.

j) Any other administrative activities which are not expressly attributed to the jurisdiction of other bodies in this jurisdictional order.

2. They shall hear in second instance appeals lodged against judgments and orders issued by Contentious-administrative courts and those corresponding appeals against refusal of leave to appeal.

3. They are also competent to hear as stipulated according to this Law review appeals against final judgments of the contentious- administrative courts.

4. They shall hear questions of jurisdiction between contentious-administrative courts within the Autonomous Community.

5. They shall hear cassation appeals for unification of doctrine in cases specified in the Law regulating Contentious-administrative jurisdiction.

6. They shall hear cassation appeals in the interest of the law in cases stipulated in the law regulating contentious-administrative jurisdiction.

Article 75.

The Labour Chamber of the High Court of Justice shall hear:

1.º In single instance, proceedings established by law on controversies which affect the interest of workers and business entrepreneurs in a sector senior to that of a Labour Court yet not senior to that of the Autonomous Community.

2.º Appeals established by law against judgments issued by the Labour Courts of the Autonomous Community, in addition to appeals to a higher court and others established under law against decisions of commercial courts of the Autonomous Community in employment matters, and those which resolve insolvency issues relating to the same area.

3.º Questions of jurisdiction arising between Labour Courts of the Autonomous Community.

Article 76.

Each of the Chambers of the High Court of Justice shall hear complaints lodged against senior judges when jurisdiction does not correspond to the Chamber referred to in the following Article.

Article 77.

1. A Chamber comprising the President of the High Court of Justice, the Chamber Presidents and the most recently appointed Senior Judge, shall hear the objections filed against the President, Presidents of the Chamber or of the Provincial Courts in the Autonomous Community or two or more Senior Magistrates of a Chamber or Section of a Provincial Court.

2. The objected party shall not form part of the Chamber, and if appropriate shall be substituted pursuant to the terms of this Law.

Article 78.

When the number of cases from specific provinces or other circumstances so require, as an exception, Contentious-administrative or Labour Chambers may be created with jurisdiction restricted to one or various provinces of the same Autonomous Community, and shall be located in the capital thereof. Said Chambers shall comprise as a minimum, their President, and shall be completed, if appropriate, with Senior Judges of the Provincial Court of their area.

Article 79.

The law on Staffing may, in those High Courts of Justice in which it would be justified due to the number of cases, reduce the number of Senior Judges and thus the Chambers shall comprise their respective President and the Presidents and Senior Judges, if appropriate, as determined by that law.

CHAPTER IV

PROVINCIAL COURTS

Article 80.

1. Provincial Courts based in the capital of the province from which they take their name shall extend their jurisdiction throughout the province without prejudice to the terms of section 4 Article 82.
2. Sections of the Provincial Court may be created outside the capital of the province to which one or various judicial districts shall be attached.
3. In any case, and subsequent to a report from the corresponding governing Chamber, the General Council of the Judiciary may agree that specific types of case should be exclusively attributed to a section of the Provincial Court which shall always extend its competence to its entire territorial scope even when some sections are displaced. This decision shall be published in the "*Boletín Oficial del Estado*". (Official State Gazette)

Article 81.

1. The Provincial Courts shall comprise a President and two or more senior judges. Two or more sections of the same composition may also be included, in which case the President of the Court shall preside over one of the Sections which shall be determined at the start of his/her mandate.
2. When the reduced number of cases being heard by a Provincial Court would so advise, its staff may consist of one to two Senior Judges including the President. In this case, the Provincial Court shall be completed for the hearing and judgment and when required by the nature of the decision to be issued, with the number of Senior Magistrates required from the High Court of Justice. For this purpose the Governing Chamber shall establish a rota for each judicial year.
3. Similarly, when the Administration of Justice deems appropriate, the Sections of the Court may comprise four Senior Judges.
4. Attachment of Senior Judges to various sections shall be functional in nature when there are not separated by jurisdictional order or by speciality. Should this be the case, the attachment shall be functional exclusively within those of the same order or speciality.

Article 82.

1. Provincial Courts shall hear in the criminal system:

1.º Cases of offences with the exception of those which the law attributes to the Criminal Courts and other Courts established in this law.

2.º Appeals established under law against judgments issued by Courts of Enquiry and Criminal courts in the province.

3.º Appeals established under law against judgments of the Courts of Penitentiary Surveillance, when they do not come under the jurisdiction of the Criminal Chamber of the National Court.

4º Appeals established under law against judgments in criminal matters lodged by the Courts of Violence against Women of the province. In order to facilitate hearing these appeals and in view of the volume of cases, one or several of the Court's sections should specialise, pursuant to Article 98 of the aforementioned Organic Law. This specialisation shall extend to

those cases to be heard by the Provincial Court in first instance of matters investigated by the Courts of Violence against Women of the province.

2. In order to hear appeals against judgments of the Courts of Enquiry in trials for minor offences, the Courts shall comprise a single Senior Judge appointed according to rota.

3. Provincial Courts shall also hear appeals against judgments of the Juvenile Courts in the same province and also questions of jurisdiction between those courts.

4. In the civil system, the Provincial Courts shall hear appeals established under law against judgments delivered in first instance by the Courts of First Instance of the province.

They shall also hear appeals established under law against judgments issued in the first instance by commercial courts unless these are issued in respect of insolvency proceedings resolving employment questions, in which case for this purpose one or several of its sections should be specialised for such issues, pursuant to the terms of Article 98 of this Organic Law.

Similarly, the Section or Sections of the Provincial Court of Alicante specialising according to the terms of the previous paragraph shall hear in second instance and in an exclusive manner, all those appeals referred to in Article 101 of Council Regulation n° 40/94, of the European Union of 20 December 1993, on the Community Trademark and Council Regulation 6/2002, of the European Union of 12 December 2001, on Community designs. Exercise of this jurisdiction shall extend throughout national territory and for these sole purposes they shall be called Community Trademark Courts.

The Provincial Courts shall also hear any appeals established under law against judgments issued on civil matters by the Courts of Violence against Women of the province. In order to facilitate hearing of these appeals, and in view of the existing volume of cases, one or several sections may specialise, pursuant to the terms of Article 98 of the aforementioned Organic Law.

5. The Provincial Courts shall also hear:

a) Questions of jurisdiction in civil and criminal matters arising between Courts of the province which have no higher court in common.

b) Objections raised against its Senior judges, when jurisdiction is not attributed to the special Chamber existing for this purpose at the High Courts of Justice.

Article 83.

1. Trial by Jury shall be held within the scope of the Provincial Court or other Courts and in the manner established under law.

2. The composition and jurisdiction of the Jury is governed by the Organic Law on the Jury Court.

CHAPTER V

COURTS OF FIRST INSTANCE AND ENQUIRY, COMMERCIAL, CRIMINAL, VIOLENCE AGAINST WOMEN, CONTENTIOUS-ADMINISTRATIVE, LABOUR, PENITENTIARY SURVEILLANCE AND JUVENILE COURTS

Article 84.

Each district shall have one or more Courts of First Instance and Enquiry based in the capital of the district and these shall have jurisdiction throughout the territorial area. Their designation shall be that of the municipality where they are based.

Article 85.

The Courts of First Instance shall hear in the civil system:

1. In first instance, trials which are not attributed by this Law to other Courts or Tribunals.
2. Acts of voluntary jurisdiction as established under law.
3. Appeals established by law against judgments of the Magistrates' Courts of the district.
4. Questions of jurisdiction in civil matters between Magistrates' Courts of the district.
5. Applications for recognition and enforcement of judgments and other foreign judicial and arbitrary decisions, unless according to the terms of treaties and other international regulations, they should be heard by another court or tribunal.

Article 86.

1. The Civil Registry shall be the responsibility of the Judges of First Instance and by delegation thereof, of the Magistrates' Court, pursuant to the terms of the law, without prejudice to the terms of said law for other Civil Registries, if appropriate.
2. The Staffing Law shall determine the towns and cities in which one or several Judges exclusively carry out their functions of the Civil Registry and, in cities where there is more than one Court of First Instance, which of these shall be responsible for the Civil Registry.

Article 86 bis

1. As a general rule, in each province, based in its capital and having jurisdiction throughout the area, there shall be one or several commercial courts.
2. Such courts may also be established in towns other than the capital city of the province when, the needs of the population, the existence of industrial or commercial centres, and economic activity so require, restricting in each case the scope of their jurisdiction.
3. Commercial courts may be established which extend their jurisdiction to two or more provinces of the same autonomous community, unless as established in section 4 of this Article.
4. The commercial courts of Alicante shall, in addition have jurisdiction in the first instance and in an exclusive manner to hear all disputes covered by the terms of the Council Regulations numbers 40/94, of the European Union of 20 December 1993, on the Community Trademark and 6/2002, of 12 December 2001, on the Community Design. In exercising this jurisdiction said Courts shall extend their jurisdiction to all national territory, and for this exclusive purpose they shall be known as Courts of the Community Trademark.

Article 86 ter

1. The commercial courts shall hear any questions raised in insolvency matters pursuant to the terms of the regulatory Law. In any case, the jurisdiction of the judge hearing the insolvency case shall extend solely and exclusively to the following matters:

1^o Civil actions of a patrimonial significance involving claims against the insolvent party's assets with the exception of those cases exercised in proceedings dealing with capacity, filiation, marriage and children referred to in title I of VOLUME IV of the Law on Civil Procedure. With the same capacity it shall hear the action referred to in Article 17.1 of the Insolvency Law.

2^o Employment actions which are designed to collectively abolish, amend or suspend work contracts in which the employer is the insolvent party, such as the suspension or abolition of senior management contracts, without prejudice to the fact that when these measures presuppose an amendment to the conditions established in the collective agreement applicable to these contracts, the consent of the workers' representatives shall be required. When hearing such matters, and without prejudice to the application of special rules of Insolvency Law, it is necessary to take into account the principles which inspired the statutory regulations and the employment process.

3^o Any enforcement in respect of the insolvent party's assets and patrimonial rights irrespective of the body which has so ordered.

4° Any cautionary measure which affects the insolvent party's assets, except those adopted in civil proceedings which are excluded from their jurisdiction in number 1.

5° Those cases which should be adopted in insolvency proceedings in relation to free legal aid.

6° Actions likely to require civil liability from labour managers, auditors, or if appropriate, to liquidators, for damages caused to the insolvent party during the procedure.

2. The commercial courts shall also hear questions jurisdiction of the civil court in respect of:

a) Claims in actions filed against unfair competition, industrial property, intellectual property and advertising, in addition to all those questions which, within this jurisdictional system, are lodged pursuant to regulations of commercial companies and cooperatives.

b) Claims lodged pursuant to international or national regulations on transport matters.

c) Those claims relating to the application of Maritime Law.

d) Actions relating to general contracting conditions in the cases established in the legislation on this matter.

e) Resources against decisions of the General Office of Registries and Notaries' Offices in matters of appeal against the qualification of the Companies Registrar, pursuant to the terms of the Mortgage Law for this procedure.

f) Procedures in which Articles 81 and 82 of the Treaty of the European Community and the law deriving therefrom are applied.

g) Matters attributed to the Courts of First Instance by Article 8 of the Arbitration Law when they refer to the issues mentioned in this section.

Article 87.

1. The Courts of Enquiry shall hear in the criminal system:

a) Enquiries into cases which should be heard by the Provincial Courts and the Criminal Courts except those cases which are the jurisdiction of the Courts of Violence against Women.

b) They shall also deliver judgments in conformance with the accusation in the cases established under law.

c) They shall hear and deliver judgments in minor offence trials, except those which come under the jurisdiction of Justices of the Peace, or the Courts of Violence against Women.

d) "Habeas corpus" procedures.

e) Appeals as established under law against judgments issued by the Magistrates' Courts of the district and questions of jurisdiction between these courts.

f) The adoption of protection orders for victims of violence against women when acting as duty court, provided that this order cannot be issued by the Court of Violence against Women.

g) Enforcement of measures for attachment and embargo of evidence transferred by a Court of a Member State of the European Union which has ordered said measures in a criminal trial when the assets or elements of proof are located in Spanish territory.

Article 87 bis.

1.- Each district shall have one or more Courts of Violence against Women based in the capital of the district and with jurisdiction throughout its territorial area. Their designation shall be that of the municipal district where they are based.

2.- Despite the foregoing, as an exception, Courts of Violence against Women may be established which extend their jurisdiction to two or more districts within the same province.

3.-The General Council of the Judiciary may order, following a report from the Governing Chamber, that in those districts where it is appropriate, given the existing work load, the cases referred to in article 87 ter of the present Organic Law may be heard by one of the Courts of First Instance and Enquiry, or enquiry, if appropriate, determining in this case that only one of these bodies should hear all the cases of this kind within the judicial district either exclusively, or while also hearing other issues.

4.- In judicial districts where there is only one Court of First Instance and Enquiry it will be this court which assumes the task of hearing the cases referred to in Article 87 ter of this Law.

Article 87.ter.

1.- The Courts of Violence against Women shall hear in the criminal system, pursuant in any case to the procedures and appeals established in the Law on Criminal Procedure, the following cases:

- a) Enquiries in proceedings for criminal liability for crimes contained in the titles of the Criminal Code relating to homicide, abortion, injuries, injury to the foetus, crimes against freedom, crimes against moral integrity, against sexual freedom and identity or any other crime committed with violence or intimidation provided that it was committed against the person who is, or has been, spouse of the perpetrator or woman who is or has been bound to the perpetrator by an analogous affective relation, even if she does not cohabit with him, as well as actions committed against the descendants either of the perpetrator or the wife or live-in partner, or on children or the incapacitated living in the same domicile or which are subject to his authority, guardianship, tutorship, fostering or care of the wife or cohabitant, when there has also been an act of gender violence.
- b) Enquiries in proceedings for criminal liability in any crime against family rights and duties, when the victim is one of the persons detailed in the foregoing section.
- c) Adoption of corresponding protection orders for victims, without prejudice to the jurisdiction attributed to the Duty Judge.
- d) Hearing and ruling in the case of offences contained in Titles I and II of Volume III of the Criminal Code, when the victim is one of the persons indicated as such in paragraph a) of this section.
- e) Deliver judgments in conformance with the accusation in the cases established under law.

2.- The Courts of Violence against Women may hear in the civil system, always in conformance with the procedures and appeals established in the Law on Civil Procedure, the following issues:

- a) Filiation, maternity and paternity.
- b) Those of matrimonial annulment, separation and divorce.
- c) Those in respect of paternal relations.
- d) Those concerning adoption or amendment to the measures of family significance.
- e) Those concerned exclusively with guardianship and custody of underage children or maintenance claimed by one parent from the other on behalf of their underage children.
- f) Those concerning the need for settlement in cases of adoption.
- g) Those concerned with opposition to administrative decisions in matters of protection of minors.

3.- The Courts of Violence against Women shall have exclusive and excluding jurisdiction in the civil system when the following requirements occur simultaneously:

- a) That it is a civil procedure concerning one of the matters indicated in number 2 of the present Article.

- b) That one of the parties in the civil procedure has been a victim of acts of gender violence in the terms referred to in section 1 a) of the present Article.
- c) That one of the parties in the civil procedure is accused as principal in the 1st degree (perpetrator), in the 2nd degree (abetter or incitor) or accessory (before or after) in acts of gender violence.
- d) That criminal proceedings have been instigated before the Court of Violence against Women for crime or offence as a result of an act of violence against women or has adopted' a protection order for a victim of gender violence.

4.- When the Judge considers that the actions heard are obviously not an expression of gender violence he/she may not admit the claim and shall submit it to the competent judicial body.

5.- In all cases mediation is prohibited.

Article 88.

In the city of Madrid there may be one or more Central Courts of Enquiry which shall hear cases whose trial corresponds to the Criminal Chamber of the National Court or if appropriate, the Central Criminal Courts and which will process cases of enforcement of European arrest warrants and surrender procedures in addition to cases of passive extradition as established under law.

Article 89.

Where appropriate, the law on staffing and boundaries may establish Courts of First Instance and Courts of Enquiry as separate bodies in those districts.

Article 89 bis.

1. In each province, and based in its capital, there shall be one or various Criminal Courts. Criminal Courts may be established with jurisdiction extending to one or various districts of the same province, pursuant to legislation on judicial boundaries and staffing, which shall establish the city where they shall be based. The Criminal Courts shall take their name from the town where they are situated.

2. The Criminal Courts shall hear proceedings for crimes as determined by the law.

In order to facilitate hearing of cases initiated by the Courts of Violence against Women, and according to the number of existing cases, one or various Courts shall specialise in each province pursuant to Article 98 of the present Law.

3. In the city of Madrid, with jurisdiction throughout Spain, there shall be one or various Central Criminal Courts which shall hear, when established by procedural laws, cases of crimes referred to in Article 65 and other issues indicated by the laws.

Article 90.

1. In each province, with jurisdiction throughout that area and based in the capital, there shall be one or more Contentious-administrative Courts.

2. When the volume of cases so requires, one or more Contentious-administrative Courts may be established in the areas determined by the law. They shall take the name of the municipal district where they are based, and shall extend their jurisdiction to the corresponding district.

3. Exceptionally, Contentious-administrative courts may also be created extending their jurisdiction to more than one province within the same Autonomous Community.

4. In the city of Madrid, with jurisdiction extending throughout Spain, there shall be Central Contentious-administrative Courts which shall hear in first or single instance contentious-administrative appeals against other provisions and acts issuing from authorities, organisations, bodies and entities with jurisdiction throughout national territory in the terms established under law.

Article 91

1. The contentious-administrative courts shall hear in the first or only instance contentious-administrative appeals against those actions expressly attributed to these Courts under law.
2. The Contentious-administrative Courts shall also authorise by means of warrant, entry into homes and other buildings for which consent of the owner or holder is required, when appropriate, for the compulsory enforcement of actions by the Authorities.

Article 92.

1. In each province, with jurisdiction throughout that area there shall be one or more Labour Courts. These may also be set up in towns other than the capital of the region when the need for the service or specific work centres would make it advisable, restricting in that case the scope of their jurisdiction.
2. The Labour courts shall exceptionally extend their jurisdiction to two or more provinces within the same Autonomous Community.

Article 93.

The Labour Courts shall hear in first or single instance procedures on matters proper to this jurisdictional regime which are not attributed to other bodies.

Article 94.

1. In each province and within the criminal jurisdictional system, there shall be one or several Courts of Penitentiary Surveillance, which shall carry out the jurisdictional duties established in the General Penitentiary Law in matters of enforcement of custodial sentences and security measures, jurisdictional control of the disciplinary power of the penitentiary authorities, protecting the rights and benefits of inmates in prisons, and any functions indicated according to law.
2. Courts of Penitentiary Surveillance may be established and may extend their jurisdiction to two or more provinces of the same Autonomous Community.
3. Penitentiary Surveillance Courts with jurisdiction which does not extend to the whole province may also be created.
4. In the city of Madrid, with jurisdiction throughout Spain, there shall be one or various Central Courts of Penitentiary Surveillance, which shall carry out the duties established in the General Penitentiary Law, described in section 1 of this Article, and other articles indicated by the law, in relation to offences which are the jurisdiction of the National Court. In any case, the jurisdiction of these Central Courts shall be preferential and exclusive when the convicted party is also completing other sentences which have not been imposed by the National Court.
5. The office of Penitentiary Surveillance Judge shall be compatible with duties carried out in a court of criminal jurisdiction.

Article 95.

1. The number of Penitentiary Surveillance Courts shall be determined in the Staffing Law, according principally to existing prisons and type of establishments.
2. The Government shall establish the location of these Courts following a hearing with the Autonomous Community affected and the General Council of the Judiciary.

Article 96.

1. In each province with jurisdiction throughout the area and located in the region's capital, there shall be one or more Juvenile Courts. However, when the volume of work so requires, Juvenile Courts shall be established with jurisdiction extending either to a specific district or group of districts, or either to two or more provinces of the same Autonomous Community. They shall take their name from the town of location.

2. In the city of Madrid, with jurisdiction throughout Spain there shall be a Central Juvenile Court, which shall hear the cases attributed by legislation regulating criminal liability of minors.

Article 97.

Juvenile Court Judges shall perform the duties established under law in respect of minors whose actions are deemed under law to be crimes or offences and those other cases which concern underage children as attributed by the law.

Article 98.

1. The General Council of the Judiciary may order, subsequent to a report from the Governing Chambers, that in those judicial areas where there is more than one Court of the same type, one or several of these courts shall assume the exclusive task of hearing specific types of case, or execute actions proper to the jurisdictional area in question, without prejudice to the work of support from communal services constituted to this effect.

2. This order shall be duly published in the "*Boletín Oficial del Estado*" (Official State Gazette) and shall enter into force from the start of the year following that in which the decision is adopted.

3. The Courts affected shall continue to hear all proceedings pending before said courts until their conclusion.

CHAPTER VI

MAGISTRATE'S COURTS

Article 99.

1. In every municipal district where there is not a Court of First Instance and Enquiry, and with jurisdiction in the pertinent area, a Magistrate's Court shall be established.

2. There may be a single Court Office for various Courts.

Article 100.

1. The Magistrate's Courts, shall hear in the civil sector the substance of cases in first instance, ruling and enforcement of procedures determined by the law. They shall also fulfil duties of the Civil Registry and any others attributed under law.

2. In the criminal sector they shall hear in first instance proceedings for offences attributed to them under law. They may also act in preventive criminal actions or by delegation and in other actions as indicated by the law.

Article 101.

1. Magistrates and their substitutes shall be appointed for a period of four years by the Governing Chamber of the corresponding High Court of Justice. The persons appointed shall be elected by the respective Town Council.

2. Magistrates and their substitutes shall be elected by the Plenary Session of the Town Council with a favourable vote of the absolute majority of its members, from among those persons who fulfil the legal conditions and apply for the post. If there is no applicant, the Town Council, in Plenary session, shall freely appoint this office.

3. Having approved the corresponding decision, it shall be submitted to the Judge of the Court of First Instance and Enquiry who shall further submit this to the Governing Chamber.

4. If within a term of three months, from the moment the vacancy occurs in a Magistrate's Court, the corresponding Town Council does not submit a proposal in the terms described in the previous sections, the Governing Chamber of the High Court of Justice shall proceed to appoint a Magistrate. It shall also do so in the event that the person proposed by the Town Council does

not, in the opinion of the Governing Chamber, and having informed the Public Prosecutor, fulfil the conditions stipulated in the present Law.

5. Magistrates shall take oath before the Judge of First Instance and Enquiry and shall take possession before the officer exercising jurisdiction.

Article 102.

Those eligible for appointment as Magistrate, both as holder of the post and as substitute, shall, even if they do not possess a law degree, fulfil the requirements established in this law for entry into the Judicial Service, and none of the grounds of incapacity or incompatibility with judicial duties established apply to them, with the exception of the performance of professional or business activities.

Article 103.

1. Magistrates shall be remunerated by the system and for the legally established amounts, and they shall have within their circumscription, the same treatment and precedence recognised therein as Judges of First Instance and Enquiry.

2. Magistrates and their substitutes, if appropriate, shall cease their duties when their mandate has elapsed and for the same motives as Service Judges insofar as these are applicable.

VOLUME II

GOVERNANCE OF THE JUDICIARY

TITLE I

Governing bodies of the Judiciary

SOLE CHAPTER

GENERAL PROVISIONS

Article 104.

1. The Judiciary is organised and performs its duties according to the principles of unity and independence.

2. Governance of the Judiciary corresponds to the General Council of the Judiciary which holds authority throughout national territory, in accordance with the Constitution and the provisions of the present Law. In their subordinate role the Governing Chambers of the Supreme Court, the National Court and those of the High Courts of Justice shall perform the duties allocated to them by this Law, without prejudice to those corresponding to the Presidents of said Courts and to those in charge of the remaining jurisdictional bodies.

Article 105.

The President of the Supreme Court and the General Council of the Judiciary is the foremost judicial authority of the Nation and represents the Judiciary and the governing body of the same. Its category and honours shall be those corresponding to the holder of one of the three powers of the State.

Article 106.

1. The Governing Chambers of the Supreme Court and the National Court perform their duties in said Courts. The Chamber of the National Court performs its duties in addition in respect of the Central Courts of Enquiry.
2. The Governing Chambers of the High Courts of Justice perform their duties in the Court itself and with respect to the Courts and Tribunals based in the respective Autonomous Community.
3. The remainder of the jurisdictional bodies perform their governing duties in respect of their own organic scope.

TITLE II

The General Council of the Judiciary

CHAPTER I

POWERS CONFERRED ON THE GENERAL COUNCIL OF THE JUDICIARY

Article 107

The General Council of the Judiciary shall have competence in the following matters:

1. Proposal by a majority of three fifths for appointment of President of the Supreme Court and the General Council of the Judiciary.
2. Proposal by a majority of three fifths for the appointment of members of the Constitutional Court when appropriate.
3. Inspection of the Courts and Tribunals.
4. Selection, training and improvement of skills, provision of appointments, promotions, administrative status and disciplinary regime for Judges and Senior judges.
5. Appointment by Order of Judges and submittal to Royal Decree, endorsed by the Ministry of Justice of the appointments of Supreme Court Senior Judges Presidents and Senior Judges.
6. Appointment of Secretary General and members of the Offices or Services depending thereon.
7. Exercise of the authorities relative to the Judiciary School as conferred under law.
8. Create, direct the execution, and control compliance with the Council's budget.
9. Regulatory powers in the terms established in Article 110 of this Law.
10. Official Publication of judgments and other decisions as determined from the Supreme Court and other courts.

To this effect, the General Council of the Judiciary following a report from the competent authorities shall establish by regulatory means the manner in which the electronic volumes of judgments shall be compiled, processed, disseminated and certified, in order to ensure their integrity, authenticity and access, as well as ensuring compliance with legislation on personal data protection.

11. Any other competence conferred under law.

Article 108.

1. The General Council of the Judiciary shall inform and notify in respect of draft bills and general State and Autonomous Community provisions which affect, either totally or partially, any of the following matters:

- a) Determination and modification of judicial boundaries and their capitals pursuant to the terms of Article 35 of this Law.

b) Establishment and modification of organic staff of Judges, Senior Judges, Secretaries and personnel in the service of the Administration of Justice.

c) Organic statute of Judges and Senior Judges.

d) Organic statute of Secretaries and the remaining personnel in the service of the administration of Justice.

e) Procedural regulations or those affecting legal or constitutional aspects of tutelage before the ordinary courts or the exercise of fundamental rights and any others which affect the constitution, organisation, operation and governance of the Courts and Tribunals.

f) Criminal laws and regulations on the penitentiary regime.

g) Those others granted under law.

2. The General Council of the Judiciary shall issue the report within a term of thirty days. When the urgency of the report is stated in the service order the term shall be fifteen days.

3. The Government shall submit said report to the General Parliament in the case of draft bills.

4. The General Council shall be heard prior to appointing the State Public Prosecutor.

Article 109.

1. The General Council of the Judiciary shall annually submit to the Parliament a Report on the state, operation and activities of the Council and the Courts and Tribunals of Justice. In addition, it shall include those needs which, in its opinion, exist in terms of personnel, installations and resources, in general for the correct performance of the functions which the Constitution and the laws assign to the Judiciary. It shall also include a chapter on the impact of gender in the judicial sphere.

2. The Parliament, in accordance with the Chamber Regulations, shall debate the content of said Report and require if appropriate, that the President of the General Council of the Judiciary, or a member thereof to whom this task has been delegated, enter an appearance. The content of said Report, always in accordance with Chamber Regulations, shall give rise to the presentation of motions, questions for obligatory reply from the Council and in general the adoption of any measures as are provided in those Regulations.

3. When the Chamber Regulations stipulate it, Parliament may request a report from the General Council of the Judiciary on propositions of the Law or amendments on matters included in section one of the previous Article. This same rule shall be applied, in the same case, to the Legislative Assemblies of the Autonomous Communities.

Article 110.

1. The General Council of the Judiciary shall issue regulations on its personnel, organisation and operation within the framework of the legislation on the public function.

2. The General Council of the Judiciary within the scope of its authority and in subordination to the laws, may issue regulations developing this Law in order to establish regulations of a secondary and supplementary nature.

These rules shall regulate accessory conditions for the exercise of rights and duties which make up the judicial statute without innovation or alteration of this statute overall. They may be approved in cases in which they are necessary for the enforcement or application of this Law, and in those cases stipulated by this or another law and, in particular in the following matters:

a) System for entry, promotion and specialisation in the Judicial Service, regime for judicial public servants in practical training and for assistant Judges and theoretical and practical courses in the Judiciary School, as well as the organisation and functions thereof.

To this effect, in the regulatory development of the organisation and functions of the Judiciary School, the composition of the Governing Council shall be determined, in which the Ministry of Justice, the Autonomous Communities with authority in matters of Justice and professional associations of judges and Senior judges shall be duly represented.

- b) Form of distribution of duties and shifts and provision of vacancies for Judges and Senior Judges.
- c) Minimum period of duty for Judges and Senior Judges.
- d) Procedure of regulated competitions and form of application for provision of vacancies and posts which are discretionary appointments.
- e) Training activities for Judges and Senior Judges and the manner in which specialised qualifications are obtained.
- f) Administrative situations of Judges and Senior Judges.
- g) Licensing and permit system for Judges and Senior Judges.
- h) Evaluation of knowledge of the language and law proper to Autonomous Communities as a preferential advantage in the allocation of judicial posts within the territory of the respective Community.
- i) System of incompatibilities and processing of cases on questions which affect the Statute of Judges and Senior Judges.
- j) Content of the judicial scale, in the terms stipulated in this law.
- k) System of substitutions, stand-in Judges, substitute Judges and Magistrates.
- l) Duties and powers of the Governing Chambers, Benches of Judges, and other government bodies and elections, appointment and termination of service of members of the Governing Chambers and of Chief Administrative Judges (*Jueces Decanos*).
- m) Inspection of Courts and Tribunals and processing of complaints and claims.
- n) Publication of judicial activities, authorisation of days and times, establishment of public hearings hours and constitution of judicial bodies outside its main office.
- ñ) Specialisation of judicial bodies, distribution of subjects and presentations and general rules on provision and development of the duty service, without prejudice to the authority and competence of the Ministry of Justice or, if appropriate, of the Autonomous Communities with competence in matters of personnel.
- o) Form of resignation and taking office in judicial bodies and compilation of case load reviews.
- p) Jurisdictional cooperation.
- q) Honours and treatment of Judges and Senior Judges and rules on protocol in judicial acts.
- r) Systems for the rationalisation, organisation and measurement of work deemed appropriate, along with systems determining the work load a jurisdictional body is able to support, as well as establishing minimum homogeneous criteria for devising distribution regulations.

3. Regulation projects shall be subject to a report from the Professional Associations of Judges and professional corporations or associations of any other kind with recognised legal representation of the interests of those who may be affected. The State Authority shall intervene, in the guise of Ministry of Justice, as shall the Autonomous Communities, provided that they have authority relating to the content of the regulation or that it is necessary to coordinate this competence with the General Council.

In any case, a prior report on gender impact shall be drafted.

Consultations and previous studies shall be carried out as deemed appropriate along with a legal opinion of the project.

The Public Prosecutor's Office shall be heard when it is affected by the subject of the project and especially in those cases considered in letters n), ñ) and q) of section 2 of this Article.

4. The Regulations, which should be approved by the Plenary Session of the General Council of the Judiciary with a majority of three fifths of its members authorised by the President, shall be published in the Official State Gazette.

CHAPTER II

COMPOSITION OF THE GENERAL COUNCIL OF THE JUDICIARY AND APPOINTMENT
AND SUBSTITUTION OF ITS MEMBERS**Article 111.**

The General Council of the Judiciary shall comprise the President of the Supreme Court who shall preside over the Council and twenty members appointed for a period of five years by the King, through Royal Decree, endorsed by the Minister of Justice subject to a proposal formulated pursuant to the terms indicated in this chapter.

Article 112.

The twelve members who, pursuant to the terms of Article 122 of the Constitution, should include judges of all judicial categories shall be proposed for their appointment by the King in accordance with the following procedure:

1. Judges and Senior Judges may be proposed, from all judicial categories, in active service, who are not members of the outgoing Council and who provide services in the expert bodies of the organisation.

2. The proposal shall be formulated and presented to the King by the Congress of Deputies and the Senate, with each Chamber proposing six Members, by a majority of three fifths of its respective members, from among those candidates presented to the Chambers by the Judges, pursuant to the established terms in the following numbers.

3. Candidates shall be presented, up to a maximum of three times the number of the twelve posts to be proposed, by professional associations of Judges and Senior Judges, or by a number of Judges and Senior judges representing at least 2 percent of all those currently in active service. The maximum number of candidates appropriate for presentation and the maximum number of candidates able to apply, with the signatures of Judges and Senior Judges, shall be adjusted to strict criteria of proportionality, and will be determined in accordance with the following regulations:

a) Thirty six candidates shall be distributed in proportion to the number of members of each association and the number of non members of any association, the latter determining the maximum number of candidates who cannot be presented through signature of other non-associated Judges and Senior Judges; all of which shall be in accordance with the data in the Register contained in the General Council of the Judiciary, pursuant to the terms of Article 401 of the present Organic Law and without any Judge or Senior Judge being entitled to endorse more than one candidate with his/her signature.

b) In the event that the number of Judges and Senior Judges presented with the endorsement of sufficient signatures exceeds the maximum referred to in section a), only those candidates should be considered who up to said maximum number have been endorsed by the greatest number of signatures. If conversely, the number of candidates endorsed by the signatures is not sufficient to cover a total of thirty six, the remainder shall be provided by the associations in proportion to the number of members; to this effect and to avoid delays the associations shall include in their initial proposal, in a differentiated manner, a complementary list of candidates.

c) Each association shall determine, in accordance with the terms of the Statutes, the system by means of which it selects the candidates for presentation.

4. Between the thirty six candidates presented pursuant to the terms in the previous section, in the first place six Members shall be chosen by the Plenary Session of the Congress of Deputies and, once these six Members have been chosen, the Senate shall choose another six from among the remaining thirty candidates. All of which is without prejudice to the terms of section 2 of the following Article.

Article 113.

1. The remaining eight members who also make up the Council, chosen by the Congress of Deputies and the Senate shall be those proposed for their appointment by the King from among lawyers and other legal professionals of recognised competence with over fifteen years practice in their profession, who are not members of the outgoing Council and who are not providing services in the specialist bodies within the Council.
2. The Plenary Session of each Chamber shall elect four Members, by a majority of three fifths of its members, in the same session in which the six Members referred to in the previous Article are elected and immediately subsequent to their election.

Article 114.

The General Council of the Judiciary shall be renewed completely every five years, from the date of its constitution. To this effect and six months prior to expiry of the Council's mandate, its President shall address the presidents of the Chambers, notifying them of the requirement to elect new Members and informing them of the details of the scale and the Register of professional associations of Judges currently in the Council's records, which shall be required for the presentation of candidacies pursuant to the terms of Article 112.

Article 115.

1. The constitutive session of the General Council of the Judiciary shall be presided over by the most senior Member in terms of age, and shall be held once the twenty members of the Council have been appointed, who shall be sworn into office or take oath before the King.
2. The outgoing Council shall continue its duties until the new Council takes office.

Article 116.

1. The early resignation of a Member of the General Council of the Judiciary shall give rise to his/her replacement. To this effect, the President of the Council shall inform the Chamber which had appointed the resigning member of this situation so that it shall proceed to make a new proposal with an identical majority to that required for the initial election.
2. The person proposed to replace the resigning Member shall be required to fulfil the requirements for election, in accordance with Articles 112 and 113 of the present Organic Law.

CHAPTER III

THE STATUTE OF THE MEMBERS OF THE GENERAL COUNCIL OF THE JUDICIARY

Article 117.

1. The members of the General Council of the Judiciary shall undertake their duties with total commitment and their office shall be incompatible with any other post, profession or activity, either public or private, either carried out as independent agent or on behalf of another entity, whether remunerated or not, with the exception of the simple administration of personal or family assets. The specific incompatibilities of Judges and Senior Judges expressly described in Article 389, section 2.^o, of the present Organic Law shall be applicable to these members.
2. The administrative status for those who are public servants, both judicial and non-judicial shall be that of special services.

Article 118.

1. Posts in which the incumbents are accorded the right to reserve their post in order to take up an appointment for a specific duration and one which has security of tenure may be covered including with the pertinent promotions for the period in which the incumbents remain in the aforementioned situation through the ordinary means of provision.
2. Those who hold the posts in question shall, when the incumbent returns to his /her post, remain attached to the associated Court in which the reserve occurred, or in the case of a

Court, at the disposition of the President of the corresponding High Court of Justice and without detriment to the remuneration they have been receiving. While they remain in this situation they shall provide their services in the posts determined by the respective Governing Chambers, accruing the compensation corresponding according to service when these are carried out in a place differing from that of his/her residence, which shall remain as that of the reserved post they had occupied.

3. While they are performing the duties of the reserved post, after a period of one year at any time during their situation of attachment, they are eligible to take up any other post obtained through the mechanisms of provision and promotion. They shall permanently occupy the reserved post in which they served when it is vacated for any reason. When they have attached status, they shall be appointed to the first vacancy occurring in the associated Court in question or in the Courts of the same jurisdiction of the place of the reserved post, unless these are posts of President or legally reserved for Senior Judges proceeding from selective tests if they do not fulfil this condition.

Article 119.

1. Civil and criminal liability of the members of the General Council of the Judiciary shall be required through the procedures established for Senior Judges of the Supreme Court.

2. Members of the General Council of the Judiciary shall not be bound by any imperative mandate and shall not be removed from their posts except when their mandate has expired, or through resignation, incapacitation, incompatibilities or serious failure to comply with the duties of the post. Any resignation shall be accepted by the President, and the assessment of the remaining causes for resignation shall be decided by the Plenary Session of the General Council of the Judiciary with a majority of three fifths of its members.

3. The Members chosen in accordance with the terms of the section 3, Article 112 shall resign when, through retirement or for other reasons, they cease to be members of the Judicial Service. In which case, the procedure to follow shall be that of Article 116.

Article 120.

Members of the General Council of the Judiciary shall not be promoted during their mandate to the category of Senior Judge of the Supreme Court, nor shall they be appointed to any office of the Judicial Service which is freely designated or for which merit is taken into account.

Article 121.

1. The members of the General Council of the Judiciary shall receive for the full duration of their mandate the remuneration which is established as unique and exclusive in view of the importance of their function. It shall be the same for all and shall be incompatible with any other remuneration.

2. Members who at the time of their election do not belong to State Bodies or the Public Authorities, or who despite being members thereof are not on active service, and on cessation do not return to their posts, provided that they have carried out the office for a minimum of three years, shall be entitled to a provisional remuneration for the period of one year equal to that they would have been receiving at the time of cessation. This provisional remuneration shall be subject to the same regime of suitability or incompatibility, if appropriate, provided for the State pension funds.

3. When the Member of the General Council of the Judiciary has the right to receive a pension as a result of being a member of a Body or Scale designated for public servants, or to a pension in the Social Security system, the time during which the duties were performed shall be computed for the effects of determining the corresponding amount.

CHAPTER IV

BODIES OF THE GENERAL COUNCIL OF THE JUDICIARY

SECTION ONE

General Provision

Article 122.

1. The General Council of the Judiciary comprises the following bodies:

- President.
- Vice president.
- Plenary body.
- Standing Committee.
- Disciplinary Committee.
- Qualification Committee.
- Equality Committee.

2. It is possible to establish regulatory Committees and Delegations as deemed appropriate.

SECTION TWO

The President

Article 123.

1. The President of the Supreme Court and the General Council of the Judiciary shall be appointed by the King at the proposal of the General Council of the Judiciary from among members of the Judicial Profession or lawyers of acknowledged experience and competence, with over fifteen years seniority in their career or in the practice of their profession. He/she may be re-elected and appointed once for a new mandate.

2. The proposal of the General Council of the Judiciary shall be adopted by a majority of three fifths of its members in the constitutive session thereof.

3. The appointment of the President of the Supreme Court and the General Council of the Judiciary shall be implemented by Royal Decree endorsed by the President of the Government.

4. The President of the Supreme Court and the General Council of the Judiciary shall swear or take oath before the King and shall take possession of the office before the Plenary General Council of the Judiciary and the High Court in a joint session.

5. The President of the General Council of the Judiciary shall be replaced by the Vice President in the event of vacancy, absence, illness or for any other legitimate motive.

Article 124.

1. The Vice President of the General Council of the Judiciary shall be proposed by the plenary session of the Council from among its Members by a majority of three fifths of its components and shall be appointed by the King.

2. The Vice President substitutes the President in the cases indicated in section 5 of the previous Article, and carries out any other duties accorded by the law.

Article 125

The President of the General Council of the Judiciary shall perform the following duties:

1. Represent the General Council of the Judiciary.

2. Convene and preside over Plenary Sessions of the Standing committees, holding the casting vote.
3. Establish the agenda of the Plenary sessions and Standing Committee.
4. Submit as many proposals as deemed appropriate in matters of competence of the Plenary Session or the Standing Committee.
5. Submit to the Plenary Session proposals for appointing Senior Judges of the Supreme Court referred to in Article 127.4) of this Law.
6. Propose the appointment of the Rapporteurs for the preparation or resolution of an issue.
7. Authorise by signature decisions of the Plenary Session and the Standing committee.
8. Senior Management of the expert bodies of the Council.
9. Any other authority or competence attributed by the Law.

Article 126.

1. The President of the Supreme Court of the General Council of the Judiciary shall terminate office:
 - a) When his/her mandate expires, deemed to expire on the same date that the appointment for which he/her had been proposed for the General Council of the Judiciary.
 - b) Resignation.
 - c) On the proposal of the Council Plenary Session on grounds of evident incapacity, or serious non-compliance with the duties pertaining to the appointment, noted by three fifths of its members.
2. Cases referred to in sections b) and c) of the present Article shall be communicated to the Government through the Minister of Justice. In such cases a new President of the Supreme Court and the General Council of the Judiciary shall be appointed.

SECTION THREE**Plenary Session****Article 127.**

The Plenary Session of the General Council of the Judiciary shall carry out the following duties:

1. Proposal for appointment by a majority of three fifths of its members for the following posts:
 - a) The President of the Supreme Court and the General Council of the Judiciary and the Vice President of the latter.
 - b) The members of the Constitutional Court to whom it corresponds to appoint.
 - c) The Presidents of the Chamber of Senior Judges of the Supreme Court and the Presidents of the High Courts of Justice of the Autonomous Communities.
 - d) The Senior Judge of the Second Criminal Chamber or Third of the Contentious-administrative Court, of the Supreme Court, competent to hear authorisation of the activities of the National Intelligence Centre which affect the fundamental rights recognised in Articles 18.2 and 3 of the Constitution, in addition to that of Senior Judge of said Supreme Court Chambers which replace him/her in the event of vacancy, absence or impossibility.

In order to compute the qualified majority required in this section the total number of twenty one members of the General Council of the Judiciary shall always be taken as a base, pursuant to the terms of article 111 of this Law.

In order to carry out the proposals for appointment as contained in this section, the Plenary Session of the General Council of the Judiciary shall ensure in all cases that the principles of merit and ability are fulfilled.

2. Proposal for appointment of the remaining offices which are discretionally designated.
3. To hold a hearing pursuant to Article 124.4 of the Constitution on the appointment of the State Public Prosecutor.
4. Resolve appeals lodged against decisions of the Standing Committee, the Disciplinary Committee and the Governing Chambers of the High Courts of Justice and of the governing bodies of the Courts and Tribunals.
5. Resolve cases of rehabilitation heard by the Disciplinary Committee.
6. Issue reports required under law and exercise the regulatory powers conferred under law to the General Council of the Judiciary.
7. Decide in the legally established cases, on the dismissal and retirement of Judges and Senior Judges in cases not provided for under the terms of Article 131.3.
8. Select and appoint the Members of Committees and Delegations.
9. Approve the annual report on the Administration of Justice read by the President at commencement of the judicial year.
10. Draw up the Budget of the General Council of the Judiciary which shall be included in the General State Budgets in an independent section.
11. Direct execution of the Council budget and control its compliance.
12. Any other duties corresponding to the General Council of the Judiciary which are not expressly attributed to other bodies thereof.

Article 128.

The Plenary session shall meet having been convened by the President, or if appropriate, the Vice President, in ordinary or extraordinary sessions pursuant to the Organisation Regulation approved by the Council. In any case an extraordinary meeting shall be held whenever five members so require, including in the agenda of the session the issues which have been proposed.

Article 129.

The Plenary Session shall be validly constituted when a minimum of fourteen of its members are present with the attendance of the President or whoever legally substitutes him/her.

SECTION FOUR

The Standing Committee

Article 130.

1. The Plenary Session of the General Council of the Judiciary shall proceed annually to appoint the Standing Committee which shall comprise the President of the Council who shall preside over said committee and four Members elected by a majority of three fifths, in a decision of the Plenary Session of the Council: two members of the Judicial profession and two further members who are not part of said profession.

2. The meetings of the Standing Committee shall only be deemed valid with the attendance of at least three of its components, and should include the President or his/her legal substitute.

3. The President may delegate the presidency of the Standing Committee to the Vice President or his/her legal substitute for resolving issues within its competence.

Article 131.

The Standing Committee is responsible for:

1. Preparing Plenary Sessions.
2. Ensuring the correct execution of decisions of the Council Plenary Session.
3. Deciding on the appointment of Judges and Senior Judges which, due to their integral regulation are not within the competence of the Plenary Session, deciding on compulsory retirement on grounds of age, resolving the administrative status and stipulating termination of service in the case of substitute Senior judges and substitute judges due to expiry of the term for which they were appointed or due to their having reached the age of seventy two years.
4. Resolve the grant of licences to Judges and Senior Judges in the cases stipulated under law.
5. Authorise the Judicial Service promotional Scale.
6. Exercise the authority and competence delegated by the Plenary Session or as attributed under law.

SECTION FIVE

The Disciplinary Committee

Article 132.

1. The Plenary Session of the General Council of the Judiciary shall elect annually with a majority of three fifths from among its Members, the components of the Disciplinary Committee which shall comprise five members. Three of these shall be chosen from among the Members who belong to the Judicial Profession and the two remaining members shall not be members of said profession.

2. The Disciplinary Committee shall act in any case with the assistance of all its component members and under the presidency of the member of said committee elected by a majority. In the event of the transitory impossibility or justified absence of any of its members, they shall be substituted by another Council Member with identical origin, who shall be appointed by the Standing Committee.

Article 133.

The Disciplinary Committee shall be authorised to hear and enquire into cases of sanctions imposed on Judges and Senior Judges.

SECTION SIX

Qualification Committee

Article 134.

1. Every year the Plenary Session of the General Council of the Judiciary shall proceed to appoint the Qualification Committee which shall comprise five members elected in the same manner as stipulated for the Disciplinary Committee.

2. It shall be presided and validly constituted in the same manner as the aforementioned Committee.

Article 135.

The Qualification Committee shall inform in any case, on the appointments made by the Plenary Committee except for the appointment of Senior Magistrate of the Supreme Court as established in Article 127.4) of this Law.

Article 136.

In order to compile sufficient information on the qualification criteria of Judges and Senior Judges, the Committee may compile information from different organisations within the Judiciary and in any case it shall receive an annual report created by the corresponding Governing Chambers of the jurisdictional bodies to which these are attached, which shall be based on objective criteria which have been sufficiently evaluated and detailed.

SECTION SIX

The Equality Committee

Article 136 bis.

1. The Council Plenary Session of the General Council of the Judiciary shall elect annually from among its Members, with a majority of three fifths and ensuring a balanced presence of men and women, the components of the Equality Committee which shall include five members.
2. The Equality Committee should act with the attendance of all its components and shall be presided over by a member elected by a majority vote. Should any member be unable to attend or should they be absent for a justified reason, they shall be substituted by another Member of the Council, preferably of the same sex, who shall be appointed by the Standing Committee.
3. The Equality Committee shall advise the Plenary Session on the measures required or appropriate to actively integrate the principle of equality between men and women in performing the duties of the General Council of the Judiciary and in particular they shall draw up prior reports on the gender impact of regulations and improve the equality parameters in the Judicial Profession.

CHAPTER V

COUNCIL PROCEDURES

SECTION 1

Decision-making procedures

Article 137.

1. Decisions made by the associated bodies of the Council shall be made by majority vote of the members present, unless the law decrees otherwise. The president shall have the casting vote in the event of a tie.

Without prejudice to the terms of Article 129 and concurrent with this Law, should it be impossible to adopt agreements due to the number of members constituting a body, a second call may be convened in which a necessary majority shall be sufficient for the constitution of associated bodies in the common legislation of the legal system of the Public Authorities.

2. The discussions held by the Council bodies shall be confidential and the members shall keep their content secret.
3. Any Member dissenting from the majority may request that their vote be recorded in the minutes. If desired, that person may formulate their dissenting vote in writing, and with grounds which shall be entered in the record, provided that it is submitted within the next day of the date of the decision.

4. When the Plenary Session makes use of its powers of report, it will incorporate the particular votes with their reasons in the text of the decision adopted, which shall be attached to the documentation sent to the department in question.

5. The decisions issued by the Council bodies are always accompanied by their grounds.

SECTION TWO

Formalising decisions

Article 138.

Decisions made by the General Council shall be documented by the Secretary General and approved by the person presiding.

SECTION THREE

Protocol of the Council Acts

Article 139.

1. Decisions of the General Council on the appointment of Presidents and Senior Judges shall take the form of Royal Decree, signed by the King and endorsed by the Ministry of Justice. The appointments of Judges shall be made by the Council through Order. All such decisions shall be published in the «*Boletín Oficial del Estado*» (Official State Gazette).

2. The Regulations approved by the General Council of the Judiciary shall be published in the manner described in Article 110.4 of the Law.

3. Any other decisions, duly documented and incorporating any dissenting votes, if appropriate, shall be communicated to the persons and bodies who are required to fulfil and execute them. These decisions shall be published in the cases and in the manner established in the applicable general regulations.

SECTION FOUR

Enforcement of decisions

Article 140.

1. The acts of the various departments of the General Council of the Judiciary shall be immediately enforceable without prejudice to the system for objection established in this Law.

2. Nevertheless, when an appeal is lodged against such acts, the competent Authority for resolving them may decide either officially or at the request of a party, to suspend enforcement, when this could entail damage which would be impossible or difficult to repair, or when this is established by the Law.

Article 141.

The Council shall execute its own decisions and acts, which shall be carried out by the appropriate departments in the service thereof with the collaboration, if required, of the State Authority and the Autonomous Communities.

SECTION FIVE

Procedure and Appeals

Article 142.

1. In any matters which are not addressed in this Law, the provisions of the Law on Administrative Procedure shall be followed in questions of procedural appeals and the form of the decisions of the General Council of the Judiciary when applicable, without the intervention of the Council of State being necessary at any time.
2. Decisions declaring on rights, official review and, if appropriate, prior declaration of damages, shall be adopted by the Council Plenary Session by an absolute majority of its members.

Article 143.

1. Decisions on procedures which determine the impossibility of continuing a procedure or which lead to lack of proper defence, and final decisions of the Standing Committee and the Disciplinary Committee may be appealed before the Plenary Session of the General Council.
2. The acts, decisions and provisions issued by the Plenary Session may be appealed via contentious-administrative channels before the corresponding Chamber of the Supreme Court.

CHAPTER VI**SPECIALISED DEPARTMENTS AT THE SERVICE OF THE GENERAL COUNCIL****SECTION ONE****General Provisions****Article 144.**

The Regulation on the organisation and function of the General Council of the Judiciary shall determine the structure, functions and competence of its specialist technical bodies.

Article 145.

1. The specialist departments of the General Council of the Judiciary may be staffed by members of the Judicial Service and the Public Prosecutor's Office, by Clerks of the Court, staff of Procedural and Administrative Management, Procedural and Administrative Proceedings and Legal Aid in the service of the Administration of Justice, in addition to civil servants working for the Public Authorities, in accordance with the number of corresponding lists of posts.
2. Members of the senior specialist departments who are required to hold a Law Degree, shall act and be appointed as Legal Experts in the service of the General Council of the Judiciary.

Article 146.

1. The provision of posts in the specialist departments shall be awarded through competition based on merit.
2. Those who have obtained senior posts shall be appointed by the Plenary Session of the General Council of the Judiciary following competition based on merit for a period of two years, which may be extended for annual periods with a maximum period of service of ten years and they shall be declared to have special service status in their original Administrative Dept.
3. In the case of provision of services in remaining posts of the specialist departments of the General Council of the Judiciary, civil servants who carry them out shall be deemed to be in active service in their Department of origin.
4. During the period in which they hold a post at the General Council of the Judiciary, they shall be subject to the Staff Regulations of the Council.

SECTION TWO**Specialist department details****Article 147.**

The Secretary General, who shall be freely appointed and removed by the Plenary Session, shall attend the sessions of its departments without voting rights and shall perform the duties of management, processing and documentation of the Council actions and decisions, and also the management and coordination of the remaining technical bodies.

Article 148.

The Inspection Service, under the auspices of the General Council, shall carry out the duties of monitoring and control of the operation of the services of the Administration of Justice by means of actions and visits to be agreed by the General Council, all of which is without prejudice to the governing bodies of the Courts.

TITLE III

Internal government of the Courts and Tribunals

CHAPTER I

GOVERNING CHAMBERS OF THE SUPREME COURT, THE NATIONAL COURT AND HIGH COURTS OF JUSTICE

SECTION ONE

Composition of the Governing Chambers and the appointment and substitution of its members

Article 149.

1. The Governing Chambers of the Supreme Court and the National Court shall comprise the President of these bodies, who shall preside over them, by the Presidents of the Chambers in those Courts and by an equal number of Senior Judges.

2. The Governing Chambers of the High Courts of Justice shall comprise the President of these bodies, who shall preside over them, by the Presidents of the Provincial Courts of the Autonomous Community and by an equal number of Senior Judges or Judges elected by all the members of the Judicial Profession appointed thereto. At least one of the components of the Chamber shall be a Judge, unless there are no candidates with that category level.

In addition, Chief Administrative Judges (*Decanos*) who have been released from their post in the respective jurisdictional system shall be considered elected members for all effects and purposes, pursuant to the terms of Article 166.3.

3. The Governing Chambers of the High Courts of Justice, when their number exceeds ten, shall be constituted in Plenary Session or in Committee.

The Committee shall comprise six members, three ex officio and three elected members.

The appointment of the members shall correspond to the Plenary Session and their substitutes in the event of vacancy. Nevertheless, the Chief Administrative Judge released totally from jurisdictional duties shall form part of the same or, one Chief Administrative Judge, should there be various.

The Committee shall be renewed annually in the same proportion and shall be chaired by the President of the High Court of Justice.

4. The Governing Secretary of the Supreme Court, the National Court and the respective High Courts of Justice shall perform the duties of Secretary of the Governing Chamber, without prejudice to all those duties expressly attributed to him/her under the terms of this Law.

Article 150.

The elected members of the Governing Chambers shall be fully renewed every five years, computed from the date of constitution thereof. Once this period has elapsed, the Governing Chamber shall continue to carry out its duties until the new constitution is formed.

Article 151.

1. The election of the Governing Chamber members shall be implemented in compliance with the following regulations:

1.^a Election shall be by personal, free, equal, direct and secret voting, with voting by mail permitted. The election should be held two months before the mandate of the formerly elected members ends.

2.^a Candidacies may include one or several candidates, together with their corresponding substitutes, up to an equal number of posts to be covered, and it shall be sufficient for them to be nominated to have the consent of the members although they may also be endorsed by a group of electors or a legally constituted professional association. Candidacies shall be open, and the electors may vote for as many candidates and substitutes as there are posts to be covered.

3.^a The successful candidates shall be those who have obtained the greatest number of votes. If, in the strict application of this rule, no Judge is elected for the Governing Chamber of a High Court of Justice, the Senior Judge who had been elected with the least number of votes shall relinquish his post to the Judge who has obtained the greatest number of votes among the candidates, unless no candidates had been presented for election in that category.

2. For the purposes established in this Article, each Court shall have an Electoral Board chaired by its President and comprising, in addition, the most senior and the most recent judges of the Supreme Court, the National Court or the corresponding High Court of Justice.

3. It is the task of the General Council of the Judiciary to convene elections and to issue the instructions necessary for organisation and, in general, for the correct implementation of the electoral process.

4. It corresponds to each electoral board to announce the candidacies, act as election committee in the election process, scrutinise the process and announce the results, which shall be communicated to the Council, and in general the management and organisation of the complete electoral procedure. An electoral contentious-administrative appeal may be lodged against decisions of the Electoral Board.

5. In the event of early resignation, for any motive or reason, of any of the elected members of the Governing Chamber, their post shall be covered by the corresponding substitute.

6. In the event that it was an elected member, and the substitute also resigns, the post shall be covered by an unelected candidate having the greatest number of votes. If no elected candidates are available partial elections shall be convened to cover the vacant post or posts.

SECTION TWO

Duties of the Governing Chambers

Article 152.

1. The Governing Chambers, also those constituted as Committees, shall govern their respective Courts and in particular their duties and authority include:

1.^o Approval of the regulations for distributing issues between the various sections of each Chamber.

2.^o Establish annually, using objective criteria, the precise rotas for composition and operation of the Chambers and Sections of the Court and the Provincial Courts of the territory, and in a binding manner the rules of assignation of the duty of Rapporteur which the Senior Judges must perform by rota system.

3.º Adopt, with respect to judicial security of tenure, the necessary measures in cases of dissidence between Senior Judges which may influence the efficiency and good order of the Courts or the Administration of Justice.

4.º Provisionally complete the composition of the Chambers in cases in which, due to the circumstances, it is necessary to ensure operation of the service, always without prejudice to respect the specific assignment of the Senior Judges in each Chamber.

5.º Propose to the General Council of the Judiciary, supported by reasoned motives, substitute Senior Judges expressing their personal and professional circumstances, and their suitability for the post and for their activity in one or various jurisdictional systems, guarantees of their effective performance and the proven aptitude shown by those who have carried out judicial work or substitution in the Public Prosecution Service, with reasoned explanation of the proposed order of preference and the exclusion of applicants. The proposals for substitute Senior Judges as a backup measure shall be subject to the same motivation requirements of the names and order of preference proposed and the exclusion of applicants.

6.º Exercise disciplinary powers over Senior Judges in the terms established in this Law.

7.º Propose to the President any inspections and informative visits deemed appropriate.

8.º Endorse cases of retirement in the event of Senior Judges' incapacity and duly inform them.

9.º Compile reports at the request of the General Council of the Judiciary and the annual Report on the workings of the Court, detailing the number and type of cases initiated and completed by each Chamber and those which are still pending indicating their year of initiation, all of which shall refer to 31 December.

The Report should in any case contain an indication of the measures deemed necessary for the correction of any deficiencies noted.

10.º Propose to the General Council of the Judiciary the adoption of measures deemed pertinent to improve the Administration of Justice with regard to the respective jurisdictional bodies.

11.º Receive sworn declaration or oath legally established from Senior Judges entering and taking possession of the respective Courts.

12.º Receive reports from the Governing Secretary, on his/her initiative or that of the Chamber, in all matters which, given that they affect the court offices or Clerks of the Court dependent on them, require some type of action. In this case, the Governing Secretary shall vote in any decision to be taken.

13.º Require from the authorised body appropriate disciplinary responsibilities from Clerks of the Court, from personnel in the service of the Administration of Justice or any others who, despite not holding such posts, provide services in a permanent or sporadic manner in said Administration.

14.º In general, carry out the other duties attributed under law to the internal governing bodies of the Courts which are not expressly attributed to the Presidents.

2. The Governing Chambers of the High Courts of Justice either in Plenary Session or in Committee are also responsible for:

1.º Approving the rules of distribution of cases among the Court Chambers and the Sections of the Provincial Courts, and Courts of the same jurisdictional order, based on the corresponding Autonomous Community.

Exceptionally and in a motivated manner and when the needs of the service so require, the Governing Chamber may order release of the distribution of cases, either totally or partially, for a limited period, to a specific Section or Judge.

2.º Exercise the powers described in sections five to fourteen of the previous section with extension to jurisdictional bodies based in the Autonomous Community corresponding to Judges and Senior Judges destined therein.

3.º Issue of Magistrates' appointments.

SECTION THREE

Operation of the Governing Chambers and organisation of their actions.

Article 153.

1. Governing Chambers shall meet, at least, twice monthly unless there were no matters pending, and additionally as required, in order to address urgent matters of interest for the Administration of Justice when deemed necessary by the President of the High Court of Justice when requested by a third of its members having submitted a reasoned proposal indicating the subject to be deliberated and decided on, or when the Governing Secretary requests it, in order to deal with questions affecting Court Offices or the Clerks of the Court on which they depend. The President shall convene the meeting indicating the issues to be addressed.

2. The Governing Chambers of the High Courts of Justice constituted in Committee shall meet weekly. The Committee shall, on a quarterly basis, inform a previously convened Plenary Session of all those matters which have been addressed and resolved. The Plenary Session may also meet when, in the opinion of the President of the Committee, the significance, importance or interest for the Administration of Justice of the issues to be resolved would require it, when the majority of members request it in a reasoned proposal and indicating the matters to be deliberated and decided on, or at the request of the Governing Secretary in order to address questions affecting Court Offices or the Clerks of the Court depending on them. The President shall convene the Plenary Session or the Committee shall be convened by the President indicating the issues to be addressed.

3. The Chamber may be comprised by the President and two members for actions which do not require formal decision making procedures, such as receiving a sworn statement or oath or the taking of possession of Judges and Senior Judges or other similar procedures.

4. In other cases and for their valid constitution, the presence of at least the majority of members shall be required and who shall be personally convened with a minimum of 24 hours notice.

Article 154.

Those having a direct or indirect interest in the matter under discussion shall not be present in the debate and voting procedure, and in this case the provisions of the law regarding abstention and objection shall apply.

Article 155.

The President shall appoint a speaker for each item to be addressed who shall inform the Chamber and shall present, if appropriate, the proposal for decision or resolution, unless for reasons of urgency this is not possible, or if, due to the minor importance of the issue, in the President's opinion this is not required.

Article 156.

The President on his/her own initiative, at the request of the speaker or following a decision of the Chamber, shall pass to the State Prosecutor's Office any issues in which that body should be concerned or when their nature makes it appropriate. The speaker, in the light of the Public Prosecutor's opinion, of which he/she shall inform the Chamber, shall formulate the corresponding proposal.

Article 157.

1. Having concluded discussions on the matter in question, voting shall take place commencing with the most recently appointed Judge, and shall follow the order of least seniority, up to the presiding judge. The voting shall be secret if the members so wish.

2. Any Judge dissenting from the majority shall ask that their vote be stated in the record. If so wished, the dissenting vote, in writing and indicating grounds may be recorded in the record if the Chamber deems it appropriate, due to the nature of the situation or circumstances, provided

that it is submitted within the term established by the Chamber, which shall be no more than three days.

3. The President shall have the casting vote in the event of a tie.

Article 158.

1. The Governing Secretary shall inform on the matters put before the Chamber; shall be present during discussion and voting; he/she shall draft the minutes, mentioning all the decisions, referring them to the cases in which they shall be inserted; the surnames of those present at the session shall be noted in the margin of the record; he/she shall keep the book of records and, if appropriate, issue any pertinent certificates.

2. The decisions of the Governing Chambers shall be enforceable and may be appealed before the General Council of the Judiciary and, in addition, the rules of the Law on Administrative Procedure shall be applicable.

Article 159.

1. The decisions of the governing Chambers shall be recorded in a register which shall be kept by the Governing Secretary and shall not be further publicised unless at the request of a person having direct, legitimate and personal interest therein.

2. Nevertheless, decisions and agreement on the rules for distribution between sections and Courts of a jurisdictional order shall be sufficiently publicised.

CHAPTER II

PRESIDENTS OF COURTS AND TRIBUNALS

Article 160.

The Presidents shall perform the following duties:

1. Convene, chair and direct the decisions of the Governing Chamber.
2. Establish the agenda in sessions of the Governing Chamber which should include subjects proposed by at least two of its components.
3. Submit as many proposals as deemed appropriate in matters within the competence of the Governing Chamber.
4. Authorise through signature the decisions of the Governing Chamber and ensure their compliance.
5. Ensure compliance of the measures adopted by the Governing Chamber in order to correct defects existing in the Administration of Justice, if within their competence and if not, make the appropriate proposals to the Council, in accordance with the Chamber.
6. Dispatch any reports requested by the General Council of the Judiciary.
7. When the urgency of a situation dictates, take the appropriate measures, informing thereon in the first meeting of the Governing Chamber.
8. Direct inspection of the Courts and Tribunals in the terms established in this law.
9. Determine the distribution of cases between the Chambers of the Court of the same jurisdictional order and between their Sections, in accordance with the rules approved by the Governing Chamber.
10. Chair daily a meeting of Presidents of Chambers and Senior Judges and ensure that the composition of the Chambers and Sections is that indicated in Article 198 of this law.
11. Exercise all the powers required for the correct functioning of the respective Court or Tribunal and the compliance by personnel with their duties.

12. Inform the General Council of the Judiciary of judicial vacancies and of vacancies for auxiliary personnel of the respective Court or Tribunal.
13. Hear complaints of interested parties in trials or hearings, taking the necessary measures.
14. Any other requirements stipulated by the law.

Article 161.

1. The President of the High Court of Justice shall represent the Judiciary in the corresponding Autonomous Community, provided that this does not apply to the President of the Supreme Court.
2. The President of the Chamber referred to in Article 78 of this Law represents the Judiciary in the provinces to which its jurisdiction extends, except when this is applicable to the High Court of Justice or the Supreme Court. Should there be, pursuant to the aforementioned article, Contentious-administrative and Labour sections of the court, that representation shall correspond to the President of the Chamber appointed by the General Council of the Judiciary.
3. The President of the High Court of Justice may delegate to the Chamber referred to in the previous Article, the governing functions deemed appropriate, in respect of the corresponding Chamber or Chambers and the jurisdictional bodies based in the provinces to which that Court or Courts extend jurisdiction.

Article 162.

The Presidents of the Supreme Court, the National Court and the High Courts of Justice and Regional courts, and if appropriate, the Governing Chambers through them, direct the lower Courts and Tribunals within their respective district and within the scope of their governing authority, any orders deemed appropriate for the improved operation of the Courts and tribunals, informing the Supreme Court without delay and, if appropriate, directly informing the General Council of the Judiciary.

Article 163.

The Supreme Court shall have a Specialist Office of Information and Documentation which is directly answerable to the President. The Ministry of Justice shall determine its composition and staffing based on the recommendations of the Governing Chamber of the Supreme Court, and prior report from the General Council of the Judiciary.

Article 164.

The Presidents of the Provincial Courts shall preside over these courts and take the requisite measures for their operation and carry out any duties attributed to them by law, without prejudice in any case to the faculties of the governing bodies of the High Court of Justice.

CHAPTER III

PRESIDENTS OF THE CHAMBERS AND JUDGES

Article 165.

The Presidents of the Chambers of Justice and Justices shall have in their respective courts a department concerned with the management and inspection of all cases, and they shall adopt within their competence decisions on the adequate running of this department, as advised by the Administration of Justice which shall inform the Presidents of the respective courts and Tribunals of any anomalies or defects noted, and shall perform disciplinary duties as recognised in procedural law on professionals concerned with the Court.

The terms of their respective disciplinary regime shall apply to the personnel attached to the service of the corresponding Chamber or Court.

CHAPTER IV

CHIEF ADMINISTRATIVE JUDGES (*DECANOS*) AND BOARDS OF JUDGES**Article 166.**

1. In cities where there are ten or more courts, their representatives shall elect one of them as Chief Administrative Judge by a majority of three fifths. If such majority is not obtained in the first voting procedure, a simple majority in the second round of voting shall be deemed sufficient and any tie shall be resolved by selecting the person with the best position on the scale. The election shall be renewed every four years or when the elected person resigns for any reason.

2. Where there are less than ten Courts, the Judge with the best position in the scale shall carry out the duties of Chief Administrative Judge or *Decano* (*which are essentially administrative in nature*).

3. Exceptionally, and when it would be justified by the circumstances of the Judges' Administrative Office, the General Council of the Judiciary having heard the Board of Judges, shall release the incumbent, either totally or partially from his/her post in the respective jurisdictional section.

Article 167.

1. Where there are two or more Courts in the same jurisdictional system, cases shall be distributed among them pursuant to the pre-established distribution regulations. The rules of distribution shall be approved by the Governing Council of the High Court of Justice at the proposal of the Board of Judges of the respective jurisdictional sector. At the request of the interested party, the Board of Judges may propose that that person be released totally or partially from the distribution of tasks for a limited period, when the correct administration of justice makes this necessary. The decision shall be transferred to the Governing Chamber so that if it deems it appropriate, it shall duly approve the proposal.

2. The distribution shall be supervised by the *Decano* or Chief Administrative Judge assisted by a Secretary, to whom it shall correspond to resolve as a matter of governance, any questions raised as well as correcting irregularities which may occur taking the requisite measures and setting in motion if appropriate, any liabilities involved in the matter.

Article 168.

1. The *Decanos* or Chief Administrative Judges shall ensure the correct use of the judicial premises and material means; they shall ensure that the duty service shall be provided in a continuous manner; they shall take urgent measures in cases which have not been distributed and when failure to do so might lead to the breaching of rights or serious and irreparable damage could occur; they shall hear complaints made by interested parties in actions or trials, taking the necessary measures, and they shall perform any other duties attributed by law.

2. In all cases it corresponds to the Chief Administrative Judges to:

- a) Resolve in a first and last resort governance appeals which may be lodged against decisions of the Clerks of the Court in distribution matters.
- b) Inform the Governing Chamber of any possible anomaly in the operation of the common procedural services of its territory.
- c) Resolve any appeals attributed under procedural law.

Article 169.

The Chief Administrative Judge shall represent all before the public powers and shall preside over the Board of judges in order to address matters of common interest relating to jurisdictional activity of judges or all or any courts. This Board shall be convened by the Chief Administrative Judge, provided that a quarter of the Judges in the city so request.

Article 170.

1. Judges of each jurisdictional order shall meet in a Board chaired by the Chief Administrative Judge, in order to propose the rules of distribution among the courts, to unify criteria and practices, and in order to address common issues or those they deem appropriate to raise with the corresponding Governing Chamber or the General Council of the Judiciary through the President of the High Court of Justice or when he/she requests that they submit a report.
2. The Chief Administrative Judge shall convene the Board when he/she deems necessary, or as requested by at least a quarter of the members of the Board.
3. Judges from the same province or Autonomous Community may also meet, presided over by the most senior in his/her post, in order to address problems common to them all.
4. The Board shall be considered validly constituted for decision making purposes when half plus one of its members attend, taking decisions by means of a simple majority.
5. The Board shall elect as Clerk one of its members who shall be responsible for drafting the record of the Board decisions, as well as maintaining the records and issuing certifications thereof.

CHAPTER V

INSPECTION OF COURTS AND TRIBUNALS

Article 171.

1. The General Council of the Judiciary is the senior body responsible for inspection and monitoring of all the Courts and Tribunals in order to check and control the operation of the Administration of Justice.
2. The President of the Council and the Members thereof, following decision of the Plenary session, may make visits for informative purposes to those bodies.
3. The Council or its President, when deemed necessary, shall order the Inspection Service attached thereto, or the Presidents, Judges of any Court or Tribunal to compile information on the work and compliance with their duties of judicial personnel.
4. The Minister of Justice, when he/she considers it appropriate shall order the Council to inspect any Court or Tribunal. In this case the Council shall notify the Ministry of Justice of the decision taken, and, if appropriate, the measures adopted. All of which is without prejudice to the faculties accorded to the State Prosecutor under the present Law.

Article 172.

1. The President of the Supreme Court directs ordinary inspection and monitors operation of the Chambers and Sections of this Court.
2. The Presidents of the High Courts of Justice exercise the same functions in their respective territorial areas.
3. The President of the National Court has the powers mentioned in previous sections, with respect to the Chambers thereof and the Central Courts.
4. The Presidents of the Provincial Courts may, by delegation, inspect the Courts and Tribunals in their jurisdiction and carry out any other administrative duties entrusted to them.

Article 173.

The inspection shall be carried out by a Judge of the same or senior category to the judge presiding over the inspected entity.

Article 174.

1. Judges and Presidents of Sections and Chambers shall carry out their inspections in the matters heard.
2. When deemed appropriate, in an endeavour to avoid abuse, it is decided to takes some measures which are not within their competence or to dispatch visits to a Court or Tribunal, they shall inform the President of the Supreme Court, the National Court or the High Court of Justice, so they can take the most appropriate decision.

Article 175.

1. Judges and personnel in the service of the Administration of Justice should provide the necessary collaboration to ensure that the inspection is correctly completed.
2. The powers of inspection shall be exercised without detriment to the authority of the Judge, Senior Judge or President.
3. The inspection shall be completed with reports on the body inspected which shall be submitted to the respective Associations of Lawyers and *Procuradores*, with respect to anything which may affect them. For this purpose they shall be notified, sufficiently in advance, with respect to the circumstances in which the inspection activity takes place.

Article 176.

1. The inspection shall include examination of everything required to ascertain how the Court or Tribunal operates, as well as compliance by judicial personnel with the duties assigned to them, with particular emphasis on the requirements for a prompt and effective processing of all cases.
2. The interpretation and application of laws made by Judges or Courts when administering justice may not be subject to approval, censure or correction due to, or as a result of the inspection.

Article 177.

1. The Judge or Senior Judge carrying out the inspection shall draft a report to be submitted to whoever has decreed the inspection.
2. Inspection visits shall be recorded, detailing the results, and a copy shall be presented to the Judge or President of the court inspected. These persons, with respect to the report or record, may formulate comments or opinions and submit them to the Authority which ordered the inspection within a term of the next ten days.
3. The President of the Governing Chamber to whom, if appropriate, the inspection shall be reported, shall if necessary take the measures deemed appropriate within his/her competence and when he/she is not authorised to resolve the matter, shall make recommendations to the General Council of the Judiciary. Communication with the General Council shall be through its President. The General Council shall adopt the appropriate measures when the inspection has been ordered.

CHAPTER VI**GOVERNING SECRETARIES****Article 178.**

1. In the Supreme Court, National Court and High Courts of Justice there shall be a Governing Secretary answerable to the Respective Governing Secretary, who shall be assisted by personnel in the service of the Administration of Justice and determined by the corresponding list of appointments.
2. In addition, these Courts may also have a Governing Vice Secretary.

VOLUME III**OPERATING PROCEDURE OF COURTS AND TRIBUNALS.****TITLE I****Time frame of judicial activities****CHAPTER I****PERIOD OF ORDINARY ACTIVITY OF THE COURTS****Article 179.**

The judicial year, ordinary period of Court activity, shall extend from 1 September, or the next working day, until 31 July of every calendar year.

Article 180.

1. During the period in which the Courts interrupt their ordinary activity, a Chamber shall be formed comprising its President and the number of Senior Judges as determined by the General Council of the Judiciary and it shall assume the duties of the Governing Chambers of Justice, ensuring that there are Senior Judges from the various Chambers.

2. Senior Judges who do not form part of this Chamber may take leave of absence following the end of the ordinary activity period, having completed the cases indicated.

Article 181.

1. At the commencement of the judicial year, a formal ceremony shall be held in the Supreme Court.

2. The President of the General Council of the Judiciary and the Supreme Court shall submit in that ceremony an annual report on the status, operation and activities of the Courts and Tribunals of Justice.

3. The State Public Prosecutor shall also read on this occasion an annual Report on its activity, the development of criminality, prevention of crime and the appropriate reforms for a more effective system of justice.

CHAPTER II**VALID PERIODS FOR JUDICIAL ACTIVITIES****Article 182.**

1. For procedural purposes, Saturdays and Sundays, 24 and 31 December, national public holidays and local public holidays in the respective Autonomous Community or location shall be deemed non working days.

The General Council of the Judiciary, through regulatory means, may authorise these days for the purpose of judicial actions in cases not expressly provided for by the laws.

2. Working hours are from eight o'clock in the morning to eight in the evening, unless the law expressly states otherwise.

Article 183.

Week days in August shall be deemed out of hours for all judicial actions except those declared urgent by procedural laws. However, the General Council of the Judiciary by means of Regulations may deem them working days for the purposes of other actions.

Article 184.

1. Without prejudice to the terms of the previous Articles every day of the year and all hours shall be working hours for hearing criminal cases without the need for any special arrangement.
2. Non-working days and hours may be made working days by the Judge or the Court, subject to the terms of the procedural laws.

Article 185.

1. The procedural terms shall be computed according to the terms of the Civil Code. Those indicated by days shall exclude non-working days.
2. If the final day of a term were a non-working day, the term shall be extended to the next working day.

TITLE II

Set up and organisation of Courts and Tribunals

CHAPTER I

PUBLIC HEARING

Article 186.

The Courts and Tribunals shall hold public hearings on all working days for the hearing of evidence and the hearing of legal actions and cases, publication of judgments and other acts indicated by law.

Article 187.

1. In public hearings, Court meetings and formal judicial acts, Judges, Senior Judges, Public Prosecutors, Clerks of the Court, Lawyers and *Procuradores* shall wear gowns and, if appropriate medals and plaques, indicating their rank.
2. In addition, they shall all sit at the same height on the Board or stand.

Article 188.

1. Judges and Presidents of the Courts and Tribunals, within the limits set by the General Council of the Judiciary, shall indicate the times for public hearing required to ensure that the procedures are processed without undue delay. They shall be announced through an edict posted in a visible location outside the Chambers of the Courts and Tribunals.
2. Judges who are part of the Chamber shall attend the hearing, unless there are justified grounds for not doing so.

Article 189.

Judges, Senior Judges, Presidents, Clerks of the Court, and other personnel in the service of the Administration of Justice shall carry out their respective duties in the terms required by the needs of the service, without prejudice to respect for the established timetable.

Article 190.

1. It corresponds to the President of the Court or the Judge to maintain order in the Chamber, to which effect he/she shall direct and decide as appropriate.
2. They shall also ensure the rights of those present.
3. These same obligations shall fall to the Clerk of the Court in all actions held exclusively before said Clerk in the Court Office.

Article 191.

For the purposes of the provisions of the previous article, those who disturb the hearing of any proceedings, or other judicial activity, giving obvious indications of approval or disapproval, failing to show the respect and consideration due to the Judges, Courts, Public Prosecutor, Lawyers, *Procuradores*, Clerks of the Court, Forensic doctors or any other personnel in the service of the Administration of Justice, shall be immediately reprimanded by the presiding officer and ejected from the Chamber or the Court Office if they do not heed the initial warning, without prejudice to the criminal liability incurred.

Article 192.

Those who resist the order to eject shall, moreover, be sanctioned with a fine, the maximum amount of which shall equal the highest fine established in the Criminal Code as a penalty for offences.

Article 193.

1. The same fine shall be applied to witnesses, experts or any other who as party or representative thereof shall behave inappropriately in hearings and judicial actions, oral hearings, actions or in written form lacking in the consideration, respect and obedience due to Judges, Public Prosecutors, Clerks of the Court and the remaining personnel in the service of the Administration of Justice, when their actions do not constitute a crime.
2. The Lawyers and *Procuradores* of the Parties are not included in this provision, in respect of whom the terms of Title V of Volume VII shall be observed.

Article 194.

1. The action motivating the penalty shall be stated in the act, in addition to the explanation which, if appropriate, the sanctioned party shall give and the decision adopted by the presiding official in this act.
2. It shall be possible to lodge an appeal for a hearing within a term of three days before the Judge, President or Clerk of the Court, who shall resolve the issue the following day. It shall be possible to lodge an administrative appeal, if that appeal has not been used, against the decision resolving the internal hearing or the imposition of the fine, within a term of five days, before the Governing Chamber, which shall issue a decision in the first meeting held, prior to a report by the Judge, President or Clerk of the Court who imposed the fine.

Article 195.

When the actions addressed in the previous Articles constitute an offence, the perpetrators shall be arrested in the act and placed at the disposition of the competent Judge.

CHAPTER II**COMPOSITION OF CHAMBERS AND SUBSTITUTE SENIOR JUDGES****Article 196.**

In cases where the law does not stipulate otherwise, three Senior Judges shall be sufficient to form a Chamber.

Article 197.

Despite this fact, all the Senior Judges in a Chamber may be called to form a Chamber, even though it may not be required by law, when the President or the majority deem it necessary for the administration of justice.

Article 198.

1. The composition of the Sections shall be determined by the President according to criteria approved annually by the Governing Chamber on the President's proposal.
2. They shall be chaired by the President of the Chamber, by the President of the Section, or failing this, by the most senior Judge in the Chamber.

Article 199.

When there are not enough Senior Judges to constitute a Chamber, in order to complete it other senior judges may be assigned by the President of the respective Court, according to a rota in which those who are free from assignment shall be preferred and among these, the most recent shall have preference.

Article 200.

1. The Supreme Court, the National Court, the High Courts of Justice and the Provincial Courts may have a list of substitute judges who shall be called according to their order within the jurisdictional sector or sectors for which they have been appointed, to form Chambers in cases where, due to unforeseen and exceptional circumstances, they cannot be constituted, except when they act in regime of attachment as a measure of reinforcement pursuant to the terms of this Law. A Chamber shall never comprise more than one substitute Senior Judge.
2. At the start of the Judicial Year, the General Council of the Judiciary shall compile the list referred to in the previous section, on the proposal of the corresponding Governing Chambers and pursuant to the terms of Article 152 of the present Law.
3. Within the limits of being called or attached, substitute Judges shall act as members of the Chamber to which they are called with the same rights and duties as the appointed Senior Judges.
4. Members of the Judicial Service who have retired on grounds of age and who are appointed to carry out this post shall have the consideration and treatment accorded to emeritus Senior Judges. They may remain in this situation until the age of seventy five years, with the same remunerative treatment as substitute Senior Judges.
5. On retirement, Senior Judges of the Supreme Court shall be designated Emeritus Senior Judges in the Supreme Court when they so request, provided that they fulfil the legally established requirements and in accordance with the needs for support and backup in the corresponding Chamber.

Article 201.

1. The office of substitute Senior Judge shall be remunerated in a manner regulated by Government within the budgetary provisions.
2. Only those who fulfil the conditions required for judicial service shall be appointed except those conditions deriving from retirement on the grounds of age. Any judge who has reached the age of seventy years and, in the case of the Supreme Court, who does not have a minimum of fifteen years of legal experience, may not be proposed as or act as a substitute.
3. Those having preference shall be those who have carried out judicial functions or who are Clerks of the Court or have substituted in the Public Prosecutor's Office, with proven aptitude, or those having practised the legal or teaching profession, provided that these circumstances are

not affected by others which would indicate their lack of suitability. Under no circumstances shall lawyers or *procuradores* be appointed.

4. The post of substitute Judge shall be subject to a regime of incompatibilities and prohibitions regulated by articles 389 to 397 of the law with the exception of:

a) The provisions of Article 394, without prejudice to the terms of section 5, d), of the present Article.

b) Grounds of incompatibility relating to teaching or legal research which shall under no circumstances be applicable, irrespective of the administrative status of those exercising that profession.

5. Substitute senior judges shall be subject to the same grounds for removal as Judges and Senior Judges, insofar as they are applicable. They shall also resign for the following motives:

a) When the period for which they were appointed has elapsed.

b) Resignation, accepted by the General Council of the Judiciary.

c) Reaching the age of seventy two years.

d) Decision of the General Council of the Judiciary, prior to summary information in a hearing of the interested party and the Public Prosecutor, when a lack of aptitude or suitability for the post has been noted, when they are incapacitated, or incompatible, or when they infringe a prohibition or fail to carry out the duties incumbent on them in a diligent manner.

Article 202.

Appointment of senior judges who are not part of the staff of the Chamber shall be made known immediately to said parties for the purpose of their possible abstention or objection.

CHAPTER III

THE JUDGE RAPPORTEUR

Article 203.

1. In each legal action or case held before a Court or Tribunal there shall be a judge rapporteur, appointed according to an established rota for the Chamber or section at the start of the judicial year, exclusively on the basis of objective criteria.

2. The appointment shall be made in the first decision issued in the procedure and the parties shall be notified of the name of the judge rapporteur and, if appropriate, the person who shall substitute him/her according to the established rota, expressing the motives for that substitution.

Article 204.

All the Senior Judges of the Chamber or Section, including Presidents, shall be part of the rota for appointment of rapporteur.

Article 205.

The rapporteur shall be responsible in the cases or actions for which they have been designated by rota for:

1. The ordinary dispatch and care of their processing.

2. Examination of interrogations, conditions and proposal of evidence submitted by the parties and informing on their pertinence.

3. Presiding over the hearing of evidence declared pertinent provided that this is not required to be heard before the Court.

4. Informing on the appeals lodged against decisions of the Chamber or Section.
5. Proposing decisive orders on incidents, judgments and other decisions which are put to the Chamber or Section for discussion and drafting the final result if there is conformance with the decision.
6. Announce judgments in public hearings.

Article 206.

1. When the rapporteur does not agree with the majority vote, he/she shall decline to draft the decision, and shall formulate a dissenting vote supported by grounds therefore.
2. In this case, the President shall order another Senior Judge to draft the decision and shall make any necessary rectifications in the rota of rapporteurs in order to establish an equal system.

CHAPTER IV

SUBSTITUTIONS

Article 207.

In the event of vacancy, leave, special services or other grounds which justify replacement, Judges shall be substituted. Substitutions shall be organised in the manner established in the present Chapter, without prejudice to the terms of this law on the composition of Chambers and Sections of the Courts.

Article 208.

1. The President of the Supreme Court, the President of the National Court and the Presidents of the High Courts of Justice shall be substituted by the President of the Chamber of the same court who holds most seniority in the post. However, the Governing Chamber shall be convened and presided by the Chamber President who holds most seniority in the post despite it being another court.
2. The Presidents of the Provincial Courts shall be substituted by the President of the section with most seniority or if there is no one who fits this position, by the Senior Judge with the highest rank on the scale.
3. When the staff of the Court has no office other than its President he/she shall be substituted by the Senior Judge whose rota duty requires that he/she complete the Court.

Article 209.

1. The Presidents of the Chambers and Sections shall be substituted by the Senior Judge with the highest rank in the scale of the Chamber or Section in question.
2. In the event of vacancy the President of the Court shall assume the role of President, if it is deemed appropriate.

Article 210.

1. The Judges of First Instance and Criminal Enquiry, Commercial, Criminal, Gender Violence, Juvenile and Labour Courts shall substitute each other in areas where there are various judges of the same jurisdictional order, in the manner to be decided by the Governing Chamber of the High Court of Justice at the proposal of the Board of Judges.
2. If there is a need to substitute the Chief Administrative Judge, his/her duties shall be carried out by the Judge substituting him/her in the Court to whom they are attached, pursuant to the terms of the previous paragraph or, if appropriate, by the most senior in the post.

Article 211.

1. When there is no other Judge of the same sector in an area the substitution shall correspond to a Judge of another sector.
2. Those of a different jurisdictional sector shall also substitute, even when there are various judges who are members of that sector, when the possibilities of substitution among them have been exhausted.
3. Judges of First Instance and Enquiry shall substitute judges of other jurisdictions and Juvenile Court judges when there is no possibility of substituting them within the same sector.

The substitution of Criminal Judges shall correspond in the case of Article 89, to the Judges of First Instance. In other cases, Criminal Judges and those of First Instance and Enquiry shall be substituted by Judges of the Commercial, Juvenile, Contentious-administrative and Labour Courts according to the order established by the Governing Chamber of the High Court of Justice.

Judges in Courts of Violence against Women shall be substituted by Judges of Criminal Enquiry or First Instance and Enquiry, according to the order established by the Governing Chamber of the respective High Court of Justice.

Article 212.

1. Judges shall perform the duties inherent in their Court both as appointed incumbents and as assistants and in the post they substitute. Said substitution when it occurs shall be remunerated in the cases and amount determined by regulations.
2. In cases where in order to replace the incumbent of the Court, irrespective of the jurisdictional sector to which they belong, the terms of the preceding Articles are not applicable, as there is only one Court in the area, due to the fact that there are numerous vacancies, or for other similar circumstances, a substitute Judge shall exercise jurisdiction with the same powers as if he/she were incumbent in the post, and shall be appointed in the same manner as the substitute Senior Judges and subject to the same legal system. These appointments shall be exceptional in nature and their requirement shall be duly accredited or motivated. In any case, assistant judges, pursuant to Article 308.2, and judges carrying out practical supervised training pursuant to Article 307.1 shall have preference for acting as substitutes.
3. Remuneration of substitute judges shall be determined by the Government and shall be regulated within the budgetary provisions. If there are various substitutes appointed for the location and the corresponding jurisdictional order, they shall be called according to the number of points obtained in the appointment procedure.

Article 213.

Magistrates shall be substituted by the respective substitute Judges.

Article 214.

When the terms established in the previous Articles cannot be applied, due to the fact that there are no substitute judges appointed as appropriate for a location and the corresponding jurisdictional order, or if it is advisable for improved expedition of cases, given the scant work load of a Court of any other area of the same degree and sector as that requiring substitution, the Governing Chamber shall extend, in a prior hearing, the jurisdiction of the incumbent of that post, who shall carry out both posts, with the right to the corresponding remuneration within budgetary provisions.

Article 215.

Extensions to jurisdiction shall be communicated to the General Council of the Judiciary for approval, without prejudice to commencement of duties if the Governing Chamber so decrees.

Article 216.

1. Seconded Services for Courts or Tribunals shall not be granted unless for a specified period, with circumstances requiring particular needs and with the prior conformance of the interested party.
2. Secondments shall be granted by the General Council of the Judiciary following a hearing of the corresponding Governing Chambers.
3. Secondments for the posts of President and Presidents of the Chamber of the National Court and High Courts of Justice shall not be granted, nor for the President of the Provincial Court.

CHAPTER IV BIS

BACKUP MEASURES FOR COURT OFFICES

Article 216 bis.

When exceptional delays or accumulation of cases in a specific Court or Tribunal cannot be corrected by increasing the staff of the Court Office or the temporary exemption from the distribution established in Article 167.1, the General Council of the Judiciary may grant exceptional measures of judicial support, appointing as substitutes or support Judges undergoing the practical training referred to in Article 307.1, in the granting of service secondments to Judges or in the attachment of substitute judges so that they participate with the incumbents of the courts in the processing and resolution of cases not pending.

If the cause of the delay is structural, the General Council of the Judiciary, together with the adoption of the aforementioned provisional measures, shall formulate the appropriate proposals to the Ministry of Justice or to the Autonomous Communities with authority in the matter, in order to accordingly adapt the staff of the Court or Tribunal affected or to correct the demarcation as appropriate.

Article 216 bis 2.

The proposals for measures of judicial support which should be submitted to the General Council of the Judiciary through the corresponding Governing Chambers should contain:

- 1º. A concise explanation of the situation experienced by the court in question.
- 2º. Reasoned explanation of the causes giving rise to the delay or accumulation of cases.
- 3º. Report on the volume of work in the court and the number and type of cases pending.
- 4º. Update Plan for the Court or Tribunal indicating the time period required and the organisation plan for the specific duties of the Judge or back up team, whose task with full jurisdiction shall be projected in the processing and resolution of new or pending cases or those pending allocation, reserving for the incumbent or incumbent judges of the court those cases currently in the process of being heard which have not yet reached that procedural state.

Article 216 bis 3.

1. The Governing Chambers of the Courts planning measures of support through secondment of services should announce their proposal so that any Judges interested in the appointment have the opportunity of making the corresponding application.
2. In the event that there are various petitioners for the same secondment of service, the corresponding Governing Chamber, when giving preference to the person deemed most suitable, shall take into account the following circumstances:
 - a) The fact that the Judge requesting secondment belongs to the same jurisdictional division as the Court or Tribunal requiring assistance.
 - b) The place and distance of the petitioner's destination.
 - c) The situation of the court where the petitioner is incumbent.

d) Knowledge of the law or the language and the substantive law proper to the Autonomous Community of the secondment.

In all cases that secondment is proposed for relief of duties, it shall be a prior requisite for its grant that, in the opinion of the General Council of the Judiciary following a report from the Governing Chamber of the High Court of Justice under whose jurisdiction the court of origin is located, the absence of the Judge affected should be covered, when this occurs, in a satisfactory manner by means of substitution or any other of the formulas established in this law.

In its appraisal mention shall be made of the Governing Chamber's proposal which, in addition, should indicate the acceptance of the Judge whose services are proposed and it should be indicated whether or not he/she is required to be relieved of duties in his/her own post.

3. Any proposal for secondment of service shall be required to state whether or not the post should be accorded the right to receive expenses and travel costs in addition to the corresponding remunerative system.

Article 216 bis 4.

Service secondments and attachments in support of substitute Judges shall be requested and granted for a maximum term of six months which shall begin to take effect from the moment of incorporation of those appointed to the Courts or Tribunals receiving the support and backup.

Nevertheless, if during said term the proposed updating has not been achieved, it will be possible to propose a new application for the measure, for a similar term or a shorter period if this is sufficient for the purpose of achieving the requisite normalisation.

Proposals for renewal shall be subject to the same requirements as those contained in the original measures for judicial support.

CHAPTER V

ABSTENTION AND OBJECTION

Article 217.

Any Judge or Senior Judge to whom any of the legally established causes apply shall refrain from hearing a case without waiting until it is objected.

Article 218.

Only the following shall be permitted to object:

1.^o In civil, labour and contentious-administrative cases, the parties; the Public Prosecutor may also do so provided that it is a process in which, due to the nature of the rights in conflict, he/she may or should intervene.

2.^o In criminal cases, the Public Prosecutor, the people's prosecutor, individual or private, the civil claimant, the accused, the respondent or the civilly liable third party.

Article 219.

Grounds for abstention and, if appropriate, objection are:

1.^a Matrimonial relation or similar civil partnership, and relation through consanguinity or affinity up to a fourth degree with the parties or the representative of the Public Prosecution Office.

2.^a Matrimonial relation or similar civil partnership and relation through consanguinity or affinity up to a second degree with the Lawyer or *Procurador* of any of the parties acting in the lawsuit or case.

3.^a The fact of being or having been judicial defender or member of the governing bodies of any of the parties or having been in the care or guardianship of same.

4.^a The fact of being or having been subject to a claim or accusation by any of the parties in respect of any crime or offence, provided that the complaint or accusation had resulted in the initiation of criminal proceedings and had not been completed with a final judgment or order for dismissal of the case.

5.^a Having been sanctioned in a disciplinary manner in virtue of a case resulting from a complaint or on the initiative of one of the parties.

6.^a The fact of having been defender or representative of any of the parties, having issued an opinion on the case or legal action as Lawyer, or acted in proceedings as Public Prosecutor or expert witness or witness.

7.^a The fact of being or having been a complainant or accuser against any of the parties.

8.^a Having a court action pending with any of these parties.

9.^a Intimate friendship or manifest enmity towards any of the parties.

10.^a Having a direct or indirect interest in the case or action.

11.^a Having participated in enquiries in a criminal case or having resolved the case or action in a previous instance.

12.^a The fact of being or having been one of the parties subordinate to the Judge who is required to resolve the legal action.

13.^a Having occupied a public office, been employed or exercised a profession in which the objected party has participated either directly or indirectly in the matter which is subject of the legal case or action, or in another case related thereto.

14.^a In procedures to which the Public Authority is party, when any of the circumstances mentioned in grounds 1 to 9, 12, and 13 to 15 of the present Article apply to the authorised Judge or the public servant who issued the action or informed in respect therefore or carried out the action for which the procedure has been instigated.

15.^a Matrimonial relation or a similar civil partnership, or relationship up to the second degree of consanguinity or affinity, with the Judge issuing the judgment or taking action to assess through appeal or in any other subsequent stage of the procedure.

16.^a The Judge has occupied a public or administrative post as a result of which he/she has had knowledge of the object of the legal action and formed an opinion to the detriment of due impartiality.

Article 220.

Repealed Article

Article 221.

1. The Judge shall, respectively, communicate the abstention to the Section or Chamber to which he/she belongs to or the judicial body to whom it corresponds to hear appeals against judgments delivered by the Judge. The abstention and its grounds shall be communicated in a reasoned brief as soon as the motives for said abstention have been detected.

The body responsible for resolving the abstention issue shall issue a decision within a term of ten days.

2. The abstention shall result in the suspension of the proceedings until it has been resolved or until the term provided for its resolution has elapsed.
3. If the Section or Chamber or the Court referred to in section 1 of this Article does not consider that the abstention is justified, the Judge shall be ordered to continue hearing the case without prejudice to the rights of the parties to exercise their right to objection. Having received this order, the Judge shall issue an order putting an end to the stay of proceedings.
4. If the competent body according to section 1 deems the abstention to be justified, the abstaining party shall issue an order removing him/herself from the case and ordering the proceedings to be transferred to the person succeeding him/her. When the abstaining party is part of an associated body, the order shall be issued by the Chamber or Section to which that Judge belongs. The order declaring on the abstention shall not be susceptible to any type of appeal.
5. In any case, stay of proceedings shall cease when the substitute receives the record of the proceedings or joins the Chamber or Section to which the abstaining party belongs.

Article 222.

The abstention and substitution of the abstaining Judge shall be communicated to the parties along with the name of the substitute.

Article 223.

1. The objection shall be made as soon as there is knowledge of the grounds on which it is based, otherwise it shall not be admitted to proceedings.

Specifically, the following objections shall not be admitted:

1.º When they are not proposed within a term of ten days from notification of the first decision in which the identity of the judge objected to is known, if knowledge of the grounds of the objection was earlier.

2.º When the objections were proposed when proceedings were already underway, if the grounds for the objection were known prior to the moment in the proceedings when the objection is proposed.

2. The objection shall be made in writing and shall specifically and clearly express the legal motives and the grounds on which it is based, and shall be accompanied by supporting evidence. This document shall be signed by the lawyer and *procurador* if they are involved in the case, and by the objector or by any person authorised by him/her if unable to sign. In any case, the *procurador* shall be required to provide a special power of attorney for the objection in question. If *procurador* and lawyer are not acting in the case the objector shall be required to ratify the objection before the Secretary of the Court in question.

3. Having formulated the objection it shall be transmitted to the other parties in the proceedings, so that within a common term of three days they shall state whether or not they oppose the grounds for the objection or whether at that moment they are aware of any other grounds for objection. The party who does not raise objection within that term may not do so subsequently unless he/she duly attests to being unaware of the new ground for objection at that time.

On the working day following completion of the term established in the previous paragraph, the objected party shall be required to declare on whether or not he/she accepts the grounds for the objection formulated.

Article 224.

1. Objection Incidents shall be investigated:

1.º When the objected party is the President or a Senior Judge of the Supreme Court, of the National Court, or of a High Court of Justice, by a Senior Judge of the Chamber to which the objected party belongs, appointed by virtue of a rota established by order of seniority.

2.º When the objected party is President of the Provincial Court, by a Senior Judge of the Civil and Criminal Chamber of the corresponding High Court of Justice appointed in virtue of the rota established by order of seniority.

3.º When the objected party is a Senior Judge of a Court, by a Senior Judge of that same Court appointed in virtue of a rota established by order of seniority, provided that he/she does not belong to the same Section as the objected party.

4.º When all the Senior Judges of a Chamber of Justice are subject to objection, by a Senior Judge of those who make up the corresponding Court designated in virtue of an established rota by order of seniority provided that he/she is not affected by the objection.

5.º When the objected party is a Judge or Senior Judge acting as a single bench judge, by a Senior Judge of an associated body shall hear its appeals appointed in virtue of the rota established by order of seniority.

6.º When the objected party is a Magistrate, by the Judge of First Instance of the corresponding district or, if there are various Courts of First Instance, the Judge appointed in virtue of the rota established by order of seniority.

Seniority shall be governed by rank according to the professional judicial scale.

2. In cases where it is not possible to fulfil the terms of the previous section, the Governing Chamber of the corresponding Court shall appoint the investigating judge, attempting to ensure that this judge is of a higher rank, or at least with greater seniority than the objected party or parties.

Article 225.

1. On the same day that the term referred to in section 3 of Article 223 ends, or on the following working day, the case or action shall be transferred for hearing by the substitute judge, and the brief and documents pertaining to the objection shall be remitted to the court appointed to investigate the case.

A report should also be attached detailing whether the grounds for objection have been admitted or not.

2. Objections which do not express substantiated grounds shall not be admitted, nor those which are not accompanied by the documentation referred to in section 2 of article 223.

3. If the objected party accepts the grounds for objection as valid, the incident shall be resolved without further proceedings.

If this is not the case, if the proposed objection is admitted for investigation and resolution, the investigating judge shall order any pertinent evidence or any he/she deems necessary within a term of ten days and subsequently this information shall be submitted to the competent court in order to rule on the incident.

Once the competent court has received the documentation and information for deciding on the objection this shall be transmitted to the Public Prosecutor's Office for report within a term of three days. Following this period, with or without the Public Prosecutor's report, the incident shall be decided on within the following five days. No appeal may be made against the resulting decision.

4. The objection shall result in suspension of the proceedings in the court action until the objection incident has been resolved, except in the case of criminal jurisdiction in which the Investigating Judge who has legally substituted the objected party shall continue to hear the case in question.

Article 226.

1. In proceedings substantiated by an oral hearing, irrespective of the jurisdiction, and in those for minor offences or summary proceedings, if the objected Judge does not accept in the act that the grounds for objection are justified, the proceedings shall pass to the persons qualified to investigate the incident, with the main case remaining in suspension in the meantime. The investigating judge shall order the parties to appear before him/her on the date and at the time established within the next five days, and having heard the parties and the pertinent evidence declared, he/she shall resolve the matter issuing an order on whether or not the objection is acceptable.

2. In the event of objection to judges subsequent to indication of the hearing date, the provisions of Articles 190 to 192 of the Law on Civil Procedure shall apply.

Article 227.

The following shall rule on objection issues:

1.º The Chamber mentioned in Article 61 of this Law when the objected party is the President of the Supreme Court, President of the Chamber or two or more Senior Judges of the same Chamber.

2.º The Chamber of the Supreme Court in question when one of its Senior Judges is objected to. For this purpose the objected party shall not form part of the Chamber.

3.º The Chamber established in article 69 when the objected party is the President of the National Court, Presidents of the Chamber or more than two Senior Judges of a Chamber.

4.º The Chamber of the National Court in question when its Senior Judges are objected to pursuant to the terms of article 68 of this Law.

5.º The Chamber referred to in article 77 of this Law when the objection concerns the President of the High Court of Justice, the President of any of its Chambers, the President of the Provincial Court with seat in the corresponding Autonomous Community or two or more Senior judges of a same Chamber of the High Courts of Justice, or two or more Senior Judges of a same Section of a Provincial Court. The objected party may not form part of the Chamber, and if appropriate, shall be substituted according to the terms of this law.

6.º The Chamber of the High Courts of Justice in question when one of its Senior Judges are objected to. For this purpose the objected party shall not form part of the Chamber.

7.º When the objected party is a Senior judge of a Provincial Court, the Provincial Court, without the objected party taking part; if this Court has two or more Sections, the Sections to which the objected party does not belong or the section following the objected party's court in numerical order .

8.º When the objected party is a Judge of the Court of First Instance and Enquiry, or the Commercial, Enquiry, Criminal, Juvenile, Penitentiary Surveillance, Contentious-administrative, Labour Courts, Section of the Provincial Court or Chamber of the High Court of Justice or the National Court hearing the appeals against its decision and, if there were several, a rota shall be established beginning with the section or Chamber with the lowest number.

9.º When the objected party is a Magistrate, the Judge investigating the objection incident shall resolve the matter.

Article 228.

1. The order dismissing the objection shall restore the case to be heard to the objected party in the same conditions and shall order the objector to pay costs, unless exceptional circumstances dictate otherwise. When the decision deciding the incident expressly declares the existence of bad faith on the part of the objector, a fine of 180 to 6,000 euros shall be imposed on the objector.

2. The order accepting the objection shall result in the removal of the objected party from hearing the case or action. The person who replaces that objected party shall continue to hear the case until its completion.

3. There is no possibility of appeal against the decision issued on the objection incident, without prejudice to asserting in appeal against the ruling given in the lawsuit or action, the possible invalidity thereof as it is the same Judge who issued the appealed ruling, or who was part of the pertinent Chamber or Section who also heard the grounds for the alleged objection.

TITLE III

Judicial actions

CHAPTER I

ORAL NATURE OF PROCEEDINGS, PUBLICITY AND OFFICIAL LANGUAGE

Article 229.

1. Judicial activity shall be predominantly oral particularly in criminal matters without prejudice to the documentation involved.

2. The statements, interrogations, testimonies, confrontations, explorations, reports, ratification of expert witnesses and hearings shall be carried out before the Judge or Court with the presence or intervention, if appropriate, of the parties and in a public hearing unless the law stipulates otherwise.

3. These activities may be carried out by means of video conference or another similar system which enables two way and simultaneous communication of sound and image and visual, auditory and verbal interaction between two persons or groups of persons who are geographically distant, ensuring in all cases the possibility of contradiction of the parties and safeguarding the right of defence, when the judge or tribunal so decrees.

In these cases the Clerk of the Court or Tribunal who has decided on the measure shall attest at the Court to the identity of the persons taking part in the video conference by means of prior remission or direct exhibition of their documentation, through personal meeting or by any other appropriate procedural medium.

Article 230.

1. The Courts and Tribunals may use any technical, electronic, computerised, and telematic means to carry out the activities and performance of their duties, with the restrictions pertinent to the use of such means as established in the Organic Law 5/1992, of 29 October, and other applicable laws.

2. The documents issued by the previous means, irrespective of the type of support, shall have the validity and effectiveness of an original document provided that its authenticity, integrity and compliance with the requirements of procedural laws are ensured.

3. Computerised procedures shall ensure the identification and exercise of the jurisdictional function by the practising body, as well as the confidentiality, privacy and security of the personal data they contain in the terms established under law.

4. Persons requiring judicial protection of their rights and interests shall be able to relate to the Administration of Justice through the technical means referred to in section one when they are compatible with those available to the Courts and Tribunals, and provided that the guarantees and requirements provided in the procedure in question are respected.

5. The General Council of the Judiciary shall determine in a regulatory manner the requirements and conditions which affect the establishment and management of automated files in the custody of the courts so that compliance is ensured with the guarantees and rights established in the Organic Law 5/1992, of 29 October for the regulation of automated processing of personal data.

The computer programmes and applications used in the Administration of Justice should be previously approved by the General Council of the Judiciary, which shall guarantee their compatibility.

The computer systems used in the Administration of Justice shall be mutually compatible, so that communication and integration is facilitated in the terms determined by the General Council of the Judiciary.

Article 231.

1. In all judicial activities, Judges, Senior Judges, Public Prosecutors, Clerks of the Court and other officers of the courts and Tribunals shall use the Spanish language, which is the official language of the State.

2. Judges, Senior Judges, Public Prosecutors, Clerks of the Court and other officers of the Courts and Tribunals may also use the official language of the Autonomous Community if none of the parties involved oppose this, by claiming a lack of knowledge which could lead to a lack of proper defence.

3. The parties, their representatives and those directing them, as well as witnesses, and expert witnesses, may use the official language of the Autonomous Community in whose territory the court action is taking place, both in oral and written statements.

4. Judicial actions and documents submitted in the official language of an Autonomous Community shall be deemed fully valid and effective without any need for translation into Spanish. They shall be officially translated when they are required to have effect outside the jurisdiction of the judicial bodies in the Autonomous Community, except in the case of Autonomous Communities with their own coinciding official language. They shall also be translated when the laws so require, or at the instigation of a party alleging lack of proper defence.

5. In oral proceedings, the Judge or Court may authorise any person knowing that language as an interpreter, having previously been sworn in or taken oath.

Article 232.

1. Judicial actions shall be public with the exceptions stipulated under procedural law.

2. In exceptional circumstances, for reasons of public order and the protection of rights and freedoms, Judges and Courts, may, providing justified grounds, restrict the scope of publicity and order the secrecy of all or part of the actions.

Article 233.

Deliberations of the Courts are secret. The results of voting shall also be secret without prejudice to the provisions of this Law on the publication of dissenting votes.

Article 234.

1. The authorised Clerks of the Court and officers of the Court Office shall provide interested parties with any information they may require on the status of judicial actions, which they may examine and hear, unless they have been declared secret pursuant to the law. They shall also issue statements in the terms established in the present Law.

2. In addition, the parties and any person attesting to legitimate interests shall have the right to obtain simple copies of briefs and documents from the court records which have not been declared secret or confidential.

Article 235.

Interested parties shall have access to those court books, files and registers which are not confidential by means of the forms of exhibition, statement or certification established by law.

Article 236.

1. Edicts shall be deemed to have been made public by means of insertion, according to case, in the Official Gazettes indicated in procedural laws.

When expressly established, such announcements and communications may be substituted in the terms stipulated in regulations by the use of telematic, computerised or electronic means.

2. Publication in any other medium shall be agreed at the request and expense of the party requesting it.

CHAPTER II

PROCEDURAL MOMENTUM AND CASE MANAGEMENT

Article 237.

Unless the law stipulates otherwise, proceedings shall be officially assigned through the pertinent channels issuing the requisite decisions to this effect.

CHAPTER III

INVALIDITY OF JUDICIAL ACTS

Article 238.

Procedural acts shall be deemed automatically invalid and void in the following cases:

1.º When they are held before or by a court which does not have jurisdiction or either objective or functional competence.

2.º When they are carried out with violence or intimidation.

3.º When essential procedural regulations are not observed, provided that as a result they have given rise to a lack of proper defence.

4.º When they are carried out without the intervention of a lawyer in cases in which the law stipulates that this is mandatory.

5.º When hearings take place without the compulsory intervention of the Clerk of the Court.

6.º In any other cases established according to procedural laws.

Article 239.

1. As soon as Courts whose proceedings were conducted with intimidation or violence are free from this condition, they shall declare all the proceedings void and shall take action against those guilty of this intimidation, duly informing the Public Prosecutor.

2. The actions of parties or persons intervening in the procedure shall also be declared void if it is attested that they were produced under conditions of intimidation or violence.

The invalidity of these actions shall affect all other actions relating thereto or which may have been conditioned or substantially influenced by the invalid action.

Article 240.

1. Automatic invalidity, in all cases, and formal defects in procedural actions implying a lack of the essential requirements for achieving their purpose, or which determine effective lack of proper defence, shall be alleged through legally established appeals against the decision in question, or through other means established by procedural laws.

2. Without prejudice to this, the Court or Tribunal shall either officially or in a separate instance, prior to the handing down of a judgment ending the proceedings, and provided that it is not remedied, following a prior hearing of the parties, declare the invalidity of all the actions or one in particular.

Under no circumstances may the Court or Tribunal in the event of an appeal officially declare the invalidity of proceedings if it has not been requested in said appeal, unless a lack of jurisdiction or objective or functional competence is noted, or if there has been violence or intimidation which affected that Court.

Article 241.

1. In general, incidents of invalid proceedings shall not be admitted. However, as an exception those who have been a legitimate party, or who should have been, may require in writing that the proceedings be declared void based on formal defects which have led to lack of defence or incongruence of the decision, provided that the former have not been subject to a complaint prior to handing down the judgement ending the proceedings, and that in either case this is not susceptible to an ordinary or extraordinary appeal.

The competent court or tribunal for hearing this incident shall be the same Court handing down the final judgment. The term for requesting invalidity shall be twenty days from notification of the judgment or, in any case, from the moment of awareness of the defects causing the lack of defence, without in this last case being able to request invalidity of the proceedings once a period of five years has elapsed following notification of the judgment.

The Court or Tribunal shall not admit to proceedings by means of a clearly justified order any incident which attempts to raise other questions. There is no possibility of appeal against a decision not to admit the incident to proceedings.

2. Having admitted to proceedings the brief requesting invalidity based on the defects referred to in the previous paragraph of this article, the enforcement and efficacy of the unappealable judgment shall not be suspended unless suspension is expressly ruled to ensure that the incident does not lose its purpose, and the brief in question together with a copy of the accompanying documents, if appropriate, attesting to the flaw or defect on which the incident is based shall be submitted to the other parties, who within the common term of five days shall have the right to submit their allegations in a brief which shall be accompanied by any documentation deemed pertinent.

If the invalidity is accepted, the proceedings will revert to their status immediately prior to the defect giving rise to the invalidity proceedings and the legally established procedure shall be followed. If the invalidity application is dismissed, an order shall be issued imposing costs of the incident on the petitioner and should the Court or Tribunal deem that the objection was lodged in bad faith, the petitioner shall, in addition, be subject to a fine of between ninety and six hundred euros.

There is no possibility of appeal against the decision resolving this incident.

Article 242.

The judicial actions carried out outside the established term may only be cancelled if the nature of the term or period were imposed.

Article 243.

1. The invalidity of an act shall not imply that the successive actions independent of that act are also void, nor those whose content had remained invariable prior to the occurrence of the infringement which gave rise to the invalidity.

2. Partial invalidity of an act shall not imply that the parts which are independent of said invalid part are also void.

3. The Court or Tribunal shall ensure that defects occurring in procedural actions of the parties may be remedied, provided that their willingness to fulfil the requirements of the law are manifestly evident.

4. Actions of the parties lacking the requirements stipulated under law may be remedied in the cases, conditions and terms established in procedural laws.

CHAPTER IV

COURT ORDERS AND DECISIONS

Article 244.

1. When resolutions of the Courts are not delivered in a Court of Justice, those issued by Governing Chambers and those of judges and Presidents when they relate to matters of governance shall be referred to as decisions.

2. The same term shall be applied in the case of cautions and corrections which as they fall to persons subject to the disciplinary jurisdiction are imposed in judgments in other judicial actions.

Article 245.

1. Resolutions of Judges and Courts of a jurisdictional nature shall be known as:

a) Writs or orders (*providencias*), when they pertain to the material organisation of the procedure.

b) Interlocutory orders or reasoned decisions (*autos*), when deciding on appeals against court orders, incidental questions, procedural budgets, invalidity of the procedure or when, in the light of the laws of civil procedure, they should be termed in this way.

c) Judgments, when they decide definitely on the trial or action in any instance or appeal or when, according to procedural laws, they should be termed in this way.

2. Judgments may be handed down by word of mouth when the law so authorises.

3. Final judgments are those against which there is no possibility of appeal, unless one of review or other extraordinary appeals as established under law.

4. Enforceable judgment is the formal document to which a final judgment is consigned. Enforceable judgements are issued in the name of the King.

Article 246.

In cases in which the law orders the Clerk of the Court to formulate a judgment proposal the Judge may adopt the mode "approved" or issue the pertinent judgment.

Article 247.

Judicial decisions delivered orally should be documented in a record in verbal trials, hearings of actions or cases and other formal sittings shall include the appropriate grounds.

Article 248.

1. The formula of the court orders and writs shall be restricted to the determination of what is ordered and of the Judge or Court issuing them, without further basis or addition than the date on which they are given, the signature or paraph of the Judge or President and the signature of the Clerk of the Court. Nevertheless, they may be concisely motivated without being subject to any requirement when this is deemed appropriate.

2. Interlocutory orders shall always be substantiated and shall contain in separate numbered paragraphs the legal facts and arguments and, finally the findings. They shall be signed by the Judge, or Senior Judge(s) who deliver them.

3. Judgments shall be formulated expressing, following a heading in separate numbered paragraphs, the background, the proven facts, if appropriate, the findings of law and finally, the ruling. They shall be signed by the Judge, or Senior Judge(s) handing them down.

4. When the parties are notified of the judgment it shall be indicated whether or not said judgment is final and, if appropriate, any appeals which may be lodged and the Court at which it should be lodged in addition to the term for doing so.

CHAPTER V

THE HEARING, VOTING AND RULING

Article 249.

Hearings of cases shall be indicated by the order of their conclusion unless the law specifies otherwise.

Article 250.

The Presidents of the Chamber and those of the Section are responsible for setting the dates of hearings or the equivalent procedure and the start of the sessions of the oral hearing.

Article 251.

1. The Judge or rapporteur shall be in possession of the records in order to deliver a judgment or decision on incidents or appeals.
2. The President and the Senior Judges may examine records at any time.

Article 252.

1. Having concluded examination of the record of the proceedings, actions or cases or from the date set for voting and ruling, any of the Senior Judges may request these records for perusal.
2. When there are numerous requests the presiding judge shall establish a fixed duration for possession of said records in order to ensure judgments may be delivered within the stipulated time constraints.

Article 253.

Interlocutory orders and judgments shall be deliberated and voted on immediately following the hearings, and when this is not possible, the President shall set the date on which voting should take place, within the term indicated for delivering a ruling.

Article 254.

1. According to the President's opinion, voting may take place separately on the different declarations of fact or law to be pronounced, or on part of the decision to be issued.
2. The rapporteur shall vote first followed by the Senior Magistrates in reverse order of seniority. The chair judge shall vote last.
3. Once the voting procedure has begun it may only be interrupted in the event of force majeure.

Article 255.

1. Interlocutory orders and judgments shall be delivered by absolute majority of votes unless the law expressly indicates a greater proportion.

2. Under no circumstances may a number of specific votes of approval be required which would alter the rule of the majority.

Article 256.

When a Judge has been transferred or retired, in the event of any pending trials or cases in which he/she took part but which have not yet been subject to a ruling, he /she shall deliberate, vote, draft and sign the judgments, as appropriate, unless there are grounds of incompatibility or the case is annulled for other reasons.

Article 257.

1. If after the hearing and prior to voting, any Senior Judge is unable or prevented from attending the sitting he/she shall submit a justified signed vote and send it directly to the President.
2. If it is not possible to write or sign it shall be dictated before the Clerk of the Court.
3. The vote thus issued shall be joined to the remaining votes and shall be maintained, marked by the presiding judge in the record of judgments.
4. When it is not possible for the judge unable to vote even to vote in this manner, the action or case shall be voted on by those who are not prevented from voting and who attended the hearing, and if there are sufficient judges necessary to form a majority, they shall deliver a judgment.

Article 258.

When there are not sufficient votes to constitute a majority as required in Article 255, the case shall be heard again, substituting the prevented, dismissed or suspended party in the manner established according to this Law.

Article 259.

The judgments shall be signed by the Judge or by the Senior Judges who have not been prevented from voting within the term established for handing down judgments.

Article 260.

1. All persons taking part in the voting on a judgment or final order shall sign the decision, even if they have dissented from the majority, however, they may in this case declare this fact at the time of voting or signature, formulating a dissenting vote in the form of judgment in which they may accept by remission the points of law and findings of law of the ruling issued by the Court with which they were in agreement.
2. A dissenting vote, with the author's signature shall be incorporated in the record of judgments and the parties shall be notified of this, together with the judgment approved by the majority. When in accordance with the law publication of the judgment is compulsory, the dissenting vote, should there be one, shall be published along with the judgment.
3. A dissenting vote may also be formulated subject to the terms of the previous paragraph, insofar as it is applicable with respect to the orders deciding on incidents.

Article 261.

If, following the Court ruling on a case, any of the Senior judges who had voted is subsequently unable to sign, the Judge presiding over the Court shall do so on his/her behalf, expressing the name of the person on whose behalf he /she signs and added the words "voted in the Chamber but was unable to sign".

Article 262.

1. When voting in a judgment or order does not result in a majority vote on any of the statements of fact or law made, it shall be debated anew and the points on which there was dissent shall be voted on again.

2. If agreement cannot be reached, the conflict shall be resolved by holding a new hearing attended by the Senior Judges who were present at the initial hearing and a further two Judges, if the number of dissenting persons was uneven, and three in the case of even numbers. In this Case the President of the Chamber shall attend if he/she had not done so previously; secondly the Senior Judges of the same Chamber who had not heard the case; thirdly the President of the Court and finally, the Senior Judges of other Chambers with preference given to those in the same jurisdictional sector.

Article 263.

1. The judge chairing the Dissenting Chamber shall announce the hearing of the conflict and the appropriate designations.

2. When the Dissenting Chamber or, if appropriate, the Plenary Session of the Chamber votes on a judgment or order and fails to achieve a majority vote on the conflicting point, voting will take place again, but this time on only the two opinions which obtained the most votes in the previous voting procedure.

Article 264.

1. Senior Judges of the various sections of the same Chamber shall meet to decide on criteria and to coordinate procedural practices. Meetings shall be called by the President of the Chamber in the event of majority petition of the Senior Judges as well as in the other cases established under law. They shall be chaired by the President of the Chamber.

2. In any case the independence of the Sections shall be retained for the procedure and resolution of the various proceedings heard.

Article 265.

Each Court or Tribunal shall maintain in the custody of the respective Clerk of the Court a record of judgments, which shall include all the final signed judgments, orders of a similar nature, and dissenting votes formulated which shall be ordered correlatively according to date.

Article 266.

1. When judgments have been drafted and signed by the Judge or Senior Judges who issued them, they shall be deposited at the Court Office and any interested party may obtain access thereto.

Access to the text of the judgements or to specific points thereof may be restricted when they could affect the right to privacy, rights of persons requiring a special duty or protection or the guarantee of anonymity of victims or injured parties, where appropriate, as well as, in general, to avoid judgments being used for purposes contrary to the Law.

2. Clerks of the Court shall place literal certification of the judgment in the record of the proceedings.

Article 267.

1. The Courts may not vary the decisions declared once they have been signed, however, they may clarify any concepts which remain unclear and rectify any material errors.

2. Clarifications referred to in the previous section may be made officially within two working days following publication of the decision or at the request of a party or the Public Prosecutor formulated within the same term, in this case having been resolved by the court within three days following that of submission of the brief in which the clarification is requested.

3. Manifest material and arithmetical errors occurring in judicial decisions may be rectified at any time.
4. Omissions or defects in judgments and orders which did not need to be remedied in order for them to take full effect may be rectified by means of an order within the same terms and with the same procedure established in the previous paragraph.
5. In the case of judgments or records which had manifestly omitted declarations relating to claims appropriately substantiated in the proceedings, the Court, on written petition of the party within a term of five days from the date of notification of the decision, prior to communication of that petition to the other parties for written allegations within a further five days, shall issue an order deciding to either complete the decision with the omitted declaration or that this is not necessary.
6. If the Court becomes aware, in the judgments or orders issued, of the omissions referred to in the previous section, it may, within a term of five days from the date on which they were issued, officially proceed by means of an order to complete the judgment in question, however without amending or rectifying the content of that decision.
7. There shall be no appeal against the orders in which clarification, rectification, remedy or supplement is resolved in the manner referred to in the previous sections of this Article, without prejudice to any appeals which may be appropriate against the judgment or order to which the application or official action of the Court refers.
8. The terms for appeals which may be lodged against the decision in question shall be interrupted from the moment their clarification, rectification, remedy or supplement is petitioned and in any case, they shall begin to be counted from the date following notification of the order which recognises or refuses the omission of a declaration and decides or denies its rectification.

CHAPTER VI

THE PLACE WHERE PROCEEDINGS ARE TO BE HELD

Article 268.

1. Judicial proceedings should take place in the seat of the Court.
2. Despite the provision of the previous section, the Courts and Tribunals shall be constituted in any place within the territory of its jurisdiction for hearing when it is necessary or appropriate for the correct administration of justice.

Article 269.

1. The Courts and Tribunals may only hold trials or hearings outside the area of the Court when authorised by law.
2. Nevertheless, the General Council of the Judiciary when the circumstances or the correct service of the Administration of Justice advise so, and at the request of the Court or Tribunal, may permit Courts and Sections or Chambers of the Courts to be constituted in a city differing from that of their base in order to address cases corresponding to a specific territorial sector which comes within their district.
3. Similarly, the Governing Chambers of the High Courts of Justice shall enable Criminal Judges, assisted by the Court Clerk, to hold oral hearings with the frequency indicated in cities where the courts who have investigated and heard cases corresponding to them are based, provided that their displacement is justified by the number of cases or due to an improved administration of justice. The Courts of Enquiry and the court officers providing their services therein shall provide their assistance in these cases to the extent required.

CHAPTER VII
NOTIFICATIONS

Article 270.

The decisions issued by Judges and Courts in addition to those issued by Clerks of the Court in the exercise of duties proper to them, shall be communicated to all those taking part in the case, action or lawsuit, and also all those referred to therein or who could be subject to prejudice or damages, when those decisions expressly provide and stipulate, pursuant to the law.

Article 271.

Notifications may be made by mail, telegraph, or any other technical means providing proof of their communication and the essential circumstances thereof as determined by procedural law.

Article 272.

Communal premises may be established for various Courts and Tribunals in the same town, despite the fact that they belong to different jurisdictional sectors. In this case the Association of *Procuradores* shall organise a service for receiving notifications which could not be delivered to those communal premises due to the non appearance of the *Procurador* and whom it is essential to notify. Reception of the notification by means of this service shall be deemed to be fully effective.

CHAPTER VIII
JURISDICTIONAL COOPERATION

Article 273.

Judges and Courts shall cooperate and assist each other in performing their jurisdictional duties.

Article 274.

1. Judicial cooperation shall be enlisted when enquiries are required outside the scope of the Court or Tribunal which ordered them or if it is the specific competence of another Court or Tribunal.
2. Petitions for cooperation, irrespective of the Court or Tribunal to which they are made, shall always be made directly without transfer or reproduction through intermediate bodies.

Article 275.

Nevertheless, Judges may carry out any criminal enquires in a place not included in their jurisdiction when it is in close proximity and as appropriate, immediately advising the competent Judge of this fact. Judges and Tribunals of other jurisdictional sectors may also carry out enquiries or obtain evidence outside the territory of their jurisdiction when this does not affect the competence of the corresponding Judge and is justified on grounds of procedural economy.

Article 276.

Requests for international cooperation shall be issued through the President of the Supreme Court, the High Court of Justice or the National Court and the Ministry of Justice which shall transmit then to the competent Authorities of the requested State, either through consular or diplomatic means, or directly if international treaties so provide.

Article 277.

The Spanish Courts and Tribunals shall provide foreign judicial authorities with any cooperation required of them for carrying out their jurisdictional duties pursuant to the terms of international treaties and conventions to which Spain is a signatory, and failing this, on the basis of reciprocity, according to the terms of the following article.

Article 278.

1. If the existence of reciprocity is attested to or if this is offered by the requesting foreign judicial body, the provision of international cooperation shall only be refused by the Spanish Courts and tribunals:

1.º When the process arising from the cooperation application is the exclusive competence of Spanish jurisdiction.

2.º When the content of the action to be carried out does not correspond to the attributions proper to the requested Spanish judicial authority. In this case it shall remit the application to the competent judicial authority, informing the requesting authority of this fact.

3.º When the communication containing the cooperation application does not fulfil the requirements of sufficient authenticity or is drafted in a language other than Spanish.

4.º When the object of the requested cooperation is manifestly contrary to Spanish public order.

2. The determination of the existence of reciprocity with the requesting State shall correspond to the Government through the Ministry of Justice.

TITLE IV (Repealed)***Judicial authentication and documentation******CHAPTER I******DUTIES ATTRIBUTED TO CLERKS OF THE COURT***

Article 279 to 282 (repealed).

CHAPTER II***RENDERING OF ACCOUNTS AND MAINTENANCE AND CUSTODY OF RECORDS***

Article 283 a 287 (repealed).

CHAPTER III***CASE MANAGEMENT ORDERS AND PROPOSALS FOR RESOLUTION***

Article 288 to 291 (repealed).

TITLE V**Patrimonial liability of the State for functioning of the Administration of Justice****Article 292.**

1. Damages caused to any assets or rights through judicial error as well as those resulting from abnormal operation of the Administration of Justice, shall grant those who have suffered

damage the right to compensation from the State, except in cases of force majeure pursuant to the terms of this Title.

2. In all cases the damage alleged shall be required to be effective, financially assessable and individualised in respect of a person or group of persons.

3. The mere revocation or cancellation of judicial resolutions does not in itself presuppose the right to compensation.

Article 293.

1. Claims for compensation due to error shall be preceded by a judicial decision expressly recognising the claim. This prior decision may result directly from a judgment issued in virtue of a review appeal. In cases resulting from any different cause, the following rules shall apply:

a) Judicial action for recognition of error should be irrevocably lodged within a term of three months from the day on which it is possible to lodge the objection.

b) The claim for declaration of error shall be submitted to the Chamber of the Supreme Court having the same jurisdictional order as the Court to which the error has been attributed, and if the error is attributed to a Chamber or Section of the Supreme Court, the competence shall correspond to the Chamber established in article 61. When the case involves military jurisdictional bodies, competence shall correspond to the Fifth Chamber, of the Military, of the Supreme Court.

c) The procedure for substantiating the claim shall be via review appeal in civil matters, with in all cases the Public Prosecutor and the State Authority being party to the proceedings.

d) The Court shall hand down a final judgment with no further appeal permissible, within a term of fifteen days, with the prior report of the jurisdictional body to whom the error is attributed.

e) If the error is not accepted the petitioner shall be liable for costs.

f) A declaration of error shall not be issued against a judgment to which this has been imputed, unless every other possible avenue available in the system has been explored.

g) The mere application for declaration of error shall not prevent enforcement of the judicial decision to which that error has been imputed.

2. Both in the case of judicial error declared as such and in the case of damages caused by the abnormal operation of the Administration of Justice, interested parties shall submit their compensation application directly to the Ministry of Justice which shall process the application according to the pertinent regulations on State liability. A contentious-administrative appeal may be lodged against the decision. The right to claim compensation is valid for one year from the date the term for claims begins.

Article 294.

1. Compensation may be claimed by those who, having undergone preventive custody, are acquitted due to the non-existence of the offence for which they were convicted or because for the same reason a stay or dismissal of proceedings has been ordered, provided that damage has been incurred as a result thereof.

2. The amount of compensation shall be established on the basis of the time the person was confined and the personal and family consequences caused by that confinement.

3. The compensation claim formalities shall be those established in section 2 of the previous article.

Article 295.

Under no circumstances shall there be compensation when the judicial error or abnormal operation of the services was due to wilful or negligent conduct of the injured party.

Article 296.

The State shall also respond to damages caused by serious wilful or negligent conduct of Judges, without prejudice to the right of the State to respond against the charges through the channels of declaratory proceedings corresponding to the competent Court. The Public Prosecutor shall always be a party to these proceedings.

Article 297.

The provisions of the previous Articles do not prevent the requirement of civil liability from Judges by private citizens pursuant to the terms of this Law.

VOLUME IV**JUDGES****TITLE I****The Judicial Service and provision of assignments****CHAPTER I****JUDICIAL SERVICE****Article 298.**

1. Jurisdictional duties of every kind carried out by of the Courts and Tribunals regulated in this Law shall only be exercised by professional Judges who belong to the Judicial Service.

2. The following may also perform jurisdictional duties without being a member of the Judicial Profession subject to the regime established in this law, without being members of the Service and with temporary security of tenure, namely, Substitute Senior Judges, those who act as substitutes for Judges, Magistrates and their substitutes.

Article 299.

1. The Judicial Service has three categories:

- Senior Judge of the Supreme Court.
- Senior Judge.
- Judge.

2. Senior Judges of the Supreme Court, without prejudice to their membership of the Judicial Service, shall also be bound by the special statute regulated in the present Organic Law.

3. Only those Judges who perform jurisdictional duties as members of the Supreme Court shall be awarded the category of Senior Judge of the Supreme Court.

Article 300.

The General Council of the Judiciary shall approve every three years as a maximum, and for shorter periods as required, the Service Scale for Judges which shall be published in the «*Boletín Oficial del Estado*», (Official State Gazette) and shall include the personal and professional data established in the regulations.

CHAPTER II

ENTRY AND PROMOTION IN THE JUDICIAL SERVICE

Article 301.

1. Entry to the Judicial Service shall be based on merit and capacity for performing jurisdictional duties.
2. The selection procedure for entry into the Service shall ensure in an objective and transparent manner, access to the Service for all citizens possessing the conditions and aptitude required, in addition to the professional suitability and sufficiency of the persons selected to carry out the jurisdictional task.
3. Entry into the Judicial Service with the category of Judge is obtained through public competitive examination and a theoretical and practical selection course carried out by the Judiciary School.
4. The announcement for entry in the Judicial Service shall be called in conjunction with that of entry into the Public Prosecution Service, and shall include all the vacancies existing at the time of such announcement plus an additional number which will foreseeably cover those places which may possibly arise before the next calling.

Successful candidates, in accordance with the places announced, shall opt according to the grade they have achieved, for either of the sections of the Service within a term set by the Selection Committee.

5. Legal Professionals may join the judicial Service with the rank of Supreme Court Judge, or Senior Judge, when they have renowned competence in those cases, manner and proportion respectively established in the law. Those who enter the judicial Service with the category of Senior Judge shall also be required to successfully complete a training course in the Judiciary School.

6. In all cases, it is a requisite that none of the causes of incapacity or incompatibility established under this law apply to candidates, nor shall they be of Judicial Service retirement age nor reach that age during the maximum time period stipulated and regulated for the duration of the selection procedure and up to taking office, including, if appropriate, the selection course held by the Judiciary School.

7. The Ministry of Justice in collaboration, if appropriate, with the competent Autonomous Communities may require the General Council of the Judiciary to announce public examinations, competitions and selective tests for the promotion and specialisation required to cover existing vacancies in the staff of the Judicial Service.

The Autonomous Communities with authority in the matter shall be provided with the same faculties as the Ministry of Justice.

8. In the announcement a quota, which shall be no less than 5 percent of vacancies to be covered, shall also be reserved for persons with disability of a degree equal to or greater than 33 percent, provided that they successfully complete the selective examinations and attest to the degree of disability and their compatibility for carrying out the duties and tasks in accordance with regulations. Entry of disabled persons in the Judicial and Public Prosecution Service shall be based on principles of equal opportunities, non-discrimination and compensation for disadvantages, proceeding, if appropriate, to the adaptation of selective procedures to the special needs and specific requirements of these persons.

Article 302.

In order to participate in the free competition for access to the Judiciary School it is necessary to be Spanish, of legal age, and to have a University Degree in Law and to be free of any of the causes of incapacity established under law.

Article 303.

Those who are incapacitated for entry to the Judicial Service are: those physically or psychologically incapable of carrying out the duties of judge; those who have been convicted of wilful misconduct and have not yet been rehabilitated; those who have been indicted or accused of unlawful conduct and who have not been acquitted or had their case dismissed or withdrawn, and those who do not have full use of their civil rights.

Article 304.

1. The Court evaluating the examinations for entry to the Judicial and Public Prosecution Service for the categories of Judge and Prosecuting Attorney respectively shall be presided by a Judge of the Supreme Court or a Senior Judge of the High Court of Justice, or a Public Prosecutor of a Chamber of the Supreme Court, or of a Public Prosecutor's Office of the High Court of Justice , and members shall comprise two Senior Judges, two Public Prosecutors, a University professor from a legal discipline on which the access examinations are based, a State Attorney, a lawyer with over ten years of professional experience and a senior category Clerk of the Court who shall act as Secretary .

2. The appointment of the Members of the Court referred to in the previous section shall be made by the Selection Committee in the following manner: the President, on the joint proposal of the President of the General Council of the Judiciary and the State Public Prosecutor; the two Judges, at the proposal of the General Council of the Judiciary; the two Public Prosecutors, at the proposal of the State Public Prosecutor's Office; the professor at the proposal of the University Coordination Board; the State Lawyer and the Clerk of the Court at the proposal of the Ministry of Justice, and the lawyer at the proposal of the General Law Council.

The University Coordination Council and the General Law Council shall issue short-lists which shall be submitted to the Selection Committee for appointment, unless there are grounds for justifying proposal of only one or two persons.

Article 305.

1. The Selection Committee, referred to in the previous Article, shall comprise a member of the General Council of the Judiciary and a Court Public Prosecutor and which shall be chaired annually by a Senior Judge, a Public Prosecutor, the Director of the Judiciary School, the Director of the Centre for Legal Studies of the Administration of Justice, and a member of the technical bodies of the General Council of the Judiciary, in addition to a civil servant of the Ministry of Justice with the minimum rank of General Assistant Director, both Law graduates, who shall act alternatively as Committee Secretaries.

2. The composition of the Selection Committee shall be published in the "*Boletín Oficial del Estado*", (Official State Gazette) by Order of the Ministry of Justice. The members of the same shall be appointed for a period of four years, in accordance with the following regulations:

a) The member of the General Council of the Judiciary, the Senior Judge and the member of the technical bodies of the General Council of the Judiciary by the Plenary Session of the General Council of the Judiciary .

b) Public Prosecutors by the State Public Prosecution Office.

c) The officer of the Ministry of Justice by the Ministry of Justice.

3. The decisions of the Selection Committee shall be adopted by a majority of its members. In the case of a tie, the President shall have the casting vote.

4. The Selection Committee, in addition to the provision of the previous Article, shall be authorised to:

a) Propose the themes, content of the exercises and supplementary regulations which should govern the competitive examination for access to the Judicial and Prosecution Services, submitting them for approval to the Ministry of Justice and the Plenary Session of the General Council of the Judiciary.

b) Carry out the requisite administrative procedures for the distribution of the successful candidates to the respective School according to their chosen option pursuant to Article 301.1.

5. Decisions established in the present Article and in section 2 of the previous Article shall be the ultimate administrative channel and shall be susceptible to contentious-administrative appeal before the Contentious-administrative Chamber of the Supreme Court.

Article 306.

1. The competitive examination for entry to the Judicial and Prosecution Service with the category of Judge and Prosecuting Attorney shall be announced at least every two years, with the Selection Committee calling the examination established in section 1 of Article 305, on the prior proposal of the General Council of the Judiciary and the Ministry of Justice, according to the maximum number of places to be offered, pursuant to section 4 of Article 301 and depending on budget availability.

2. Under no circumstances in the examinations established in Article 301 may the Court select a number of candidates greater than the number of vacancies announced according to the terms of said Article.

3. The candidates who have successfully passed the competitive examination for entry to the Judicial Service shall be considered civil servants on practical training.

Article 307.

1. The Judiciary School, set up as a centre for selection and training for Judges and dependent on the General Council of the Judiciary, is designed to provide integral, specialised and high quality training to members of the Judicial Service, as well as to candidates aspiring to enter the service.

The selection course shall include a programme of multidisciplinary training and a tutored practical period in the different bodies of various court sectors. During the practical period, the judges in training shall act as assistants to the incumbent judges. Exceptionally, they may act as substitutes or back up judges pursuant to the terms established under law.

The Judiciary School shall coordinate and provide the initial training and also ongoing training in the terms established in Article 433 bis.

2. The duration of the practical period, its circumstances and the destination and duties of the Judges in practical training shall be regulated by the General Council of the Judiciary according to the programme devised by the Judiciary School. Under no circumstances shall the duration of the theoretical course be less than nine months and the duration of the practical course shall not be less than six months.

In all cases the duties of the Judges in practical training who are not acting as substitutes or back up as indicated under the terms of this law shall not exceed the task of drafting or planning the judgment which the judge or rapporteur, shall, if appropriate, assume, adding any amendments they deem pertinent.

3. Those who successfully complete the theoretical and practical courses shall be appointed judges by order of the proposal made by the Judiciary School.

4. The appointment shall be issued by the General Council of the Judiciary in an order and with the taking of office they shall be invested as Judges.

Article 308.

1. The Judiciary School shall draw up a list of candidates who have passed the theoretical and practical course according to the grade achieved which shall be submitted to the General Council of the Judiciary.

2. Without prejudice to the terms of Article 301.4, those approved candidates who could not be appointed to the post of judge in a court shall enter the Judicial Service as assistant Judges taking office before the President of the General Council of the Judiciary, to which they shall be attached for the purposes described in Articles 212.2, 216, 216 bis 1, 216 bis 2, 216 bis 3 and 216 bis 4.

Assistant Judges shall have preference over substitute Judges in any call to perform duties referred to in the Articles in the previous paragraph and they shall cease from their duties when they are appointed Judges and assigned to fill the vacancies arising, according to their rank in the numerical order of successful candidates.

Article 309.

1. Candidates who fail the course may repeat it in the next announcement.
2. If they fail the course again, they shall be definitively excluded and precluded from any expectation of entering the Judicial Service based on the selective examinations they had passed.

Article 310.

All the selective examinations for entry and promotion in the Judicial and Public Prosecution Service shall include the study of the principle of sexual equality between men and women, including measures against gender violence, and its transversal application within the scope of jurisdictional duties.

Article 311.

1. Of every four vacancies occurring in the category of Senior Judges two shall be provided by promotion of judges on the first rank of the scale within this category.

Any Judge may waive promotion to the rank of Senior Judge expressly notifying the General Council of the Judiciary in the manner and within the term determined by the Council. This waiver shall require him/her to remain in the rank of Judge for two years and this waiver may be repeated up to a maximum of three times. Once the terms have elapsed, the Judge shall be promoted according to the corresponding rota. Judges exercising the right of waiver shall maintain their position in rank on the scale of Judges until promoted and shall be unable to participate in ordinary competition for transfer while they remain in this situation.

The third vacancy shall be provided from, among Judges, by means of selective examinations in the civil and criminal jurisdictions and specialisation in the contentious-administrative and labour divisions.

The fourth vacancy shall be allocated through competition between legal professionals of renowned competence with over ten years professional practice who successfully complete the training course referred to in section 5 of Article 301. In turn, a third of these vacancies shall be reserved for members of the Clerks of the Court body, of first or second category.

The use of this procedure shall only permit calling of a number of places which does not exceed the total of those effectively made vacant, in addition to those which will foreseeably arise during the period over which the competitive examinations take place.

2. In the case of promotion through rank it will be necessary to have provided three years of effective service as a Judge. In order to apply for the selective or specialisation examinations it shall be sufficient, however, to have two years' effective service, irrespective of the administrative situation of the candidate. Members of the Judicial Service with the category of Senior Judge may also present themselves for the specialisation in the contentious-administrative and labour jurisdictions, and, as a means of access to the Judicial Service, members of the Public Prosecution Service; in both cases it shall be necessary to have served effectively for at least two years in their respective services. The same shall be required from those who submit to the selective examinations referred to in section 4 of article 329.

3. The General Council of the Judiciary may call all or some of the announcements by speciality, for access to the Judicial Service and rank of Senior Judge, of legal professionals of renowned competence, restricting these to the evaluation of merit relating to the corresponding field, and reserving for this purpose the appropriate characteristics within the general proportions established in section 1.

4. Those who access the rank of Senior Judge without previously belonging to the Judicial Service shall be incorporated to that rank immediately after the last Senior Judge to have accessed the category. They may not obtain voluntary leave of absence except in those cases defined in Article 356 d) and e), until they have completed the effective service time in the Judicial Service established in section c) of the aforementioned Article.

5. Those who successfully complete the examinations in the contentious-administrative and labour examinations, having previously been attached to the public prosecution service, shall have that service computed in the judicial service when they participate in competitive examinations for the discretionary appointment of places and offices.

6. Those candidates who, in accordance with the provisions of section 4 of this Article, subsequently enter the judicial service in limited competition pursuant to section 3, shall not occupy posts corresponding to a jurisdictional sector or a different speciality unless they pass the specialist examinations established in this Law for contentious-administrative, labour or commercial sectors.

7. Vacancies which are not covered by this procedure shall accrue to the next intake following selective testing and specialisation, if announced, or in other cases shall be filled according to seniority.

8. In the contentious-administrative and labour jurisdictions, the number of vacancies for specialist Senior Judges to be announced may not be greater than the number of vacancies on the date of the convocation.

Article 312.

1. Selective examinations for promotion from the category of Judge to that of Senior Judge in the civil and criminal jurisdictions shall be held at the Judiciary School and shall tend to take into account the degree of capacity and legal training of the candidates as well as their knowledge of the different branches of law. They may consist of studies, successful completion of courses, the drafting of opinions or resolutions and their defence before the court, presentation of subjects and reply to observations formulated by the Court, or other similar exercises.

2. The examinations for promotion from the category of Judge to that of Senior Judge specialising in contentious-administrative or labour jurisdictions will also take into account the knowledge acquired proper to each jurisdictional sector.

3. The regulations governing these examinations, the exercises and, if appropriate, the programmes shall be approved by the General Council of the Judiciary.

Article 313.

1. The General Council of the Judiciary while announcing the examinations based on merit referred to in Article 311, shall also approve the bases for said examinations, in which the maximum marks shall be awarded according to the scale established in the following section.

2. The scale shall establish a value for the following merits:

a) Law Degree with a grade higher than a pass, including academic history.

b) Doctorate in Law and grade reached on completing, including academic history.

c) Years of effective law practice in the Courts and Tribunals, opinions issued and assessment provided.

d) Years of effective service as Professor of Law or full time University teacher in legal disciplines at Public Universities or with similar categories in private Universities.

e) Years of service as civil servant in any other divisions of the Public Authority or Civil Service, entry to which requires express possession of the qualification of Doctor or Bachelor of Law and implies intervention before the Courts of Justice, in the Public Prosecution Service or in the division of Clerks of the Court, having served and performed duties in said posts.

f) Years of effective service in judicial functions without being a member of the judicial services and number of judgments handed down, including evaluation of said judgments.

- g) Scientific-legal publications. .
- h) Talks and lectures in conferences and courses on relevant legal interest.
- i) Completion of legal specialisation courses with a duration of no less than three hundred hours, as well as obtaining research qualifications accredited by the National Agency for Quality and Accreditation.
- j) Having passed one of the exercises as part of the examinations for access to the free rota of the judicial service.
3. The bases shall also include practical examinations including the drafting of an opinion report which will help to assess the candidate's aptitude.
4. When announcing the competition, the General Council of the Judiciary shall also determine the maximum grade of merit included in each of the sections in section 2 above, so that it does not exceed the maximum attributed to the sum of the other two. The marks awarded in sections c), d), e) and f) of the section shall not be less than the maximum which would be attributed to any other merits of the remaining sections thereof.
5. The qualifying Tribunal may only take into account merits which are included in the scale and bear a relation to the matters proper to the jurisdictional division for which the competition is being held, and provided that they have been duly attested to by the candidate.
6. The bases shall establish the provisions required to ensure that the qualifying Tribunal is able to ascertain the influences affecting candidates in their professional life and which may have been important for evaluating their aptitude when carrying out the judicial duties.
7. In order to assess the merits claimed by candidates referred to in section 2 of this article, the announcement conditions shall establish the faculty of the Tribunal to call candidates or those who initially achieve a specific mark in an interview, with a maximum duration of one hour in which the merits put forward by the candidate along with his/her professional curriculum shall be debated. The interview's sole purpose is to attest to the reality of the legal training and suitability for entry to the Judicial Service, based on the alleged merits, and shall not become a general examination of legal knowledge.
8. The bases shall establish the form of assessment of the professional merits examined in the interview.
- This assessment shall be restricted to the increase or decrease of the initial mark for those in the maximum proportion established, without prejudice to the terms of section 10 of this article.
9. The Tribunal shall issue a report of the content and result of the interview expressing the criteria applied for the definitive qualification of the candidate.
10. The bases shall establish the procedure to be followed by the tribunal when excluding candidates, in the event that they do not possess the quality of legal professional with renowned competence, either due to insufficiency or lack of aptitude deduced from the objective data in the case, or due to the presence of circumstances which presuppose discredit incompatible with that condition, even when a candidate has exceeded the minimum mark required by the fixed scale. In this case, the decision of the Tribunal shall be motivated separately from the proposal which accompanies it, and the interested party shall be notified by the General Council of the Judiciary.
11. Following the interview, the Council may reject a candidate on specific grounds despite the favourable proposal of the qualifying Tribunal, provided that subsequent to that procedure, evidence arises of a circumstance which presupposes insuperable discredit.

Article 314.

The Tribunal for the selection procedure described in article 312 of this Law shall be appointed by the General Council of the Judiciary and shall be chaired by the President of the Supreme Court or a Senior Judge of the Supreme Court or the High Court of Justice delegated to the procedure, and its members shall comprise: two Senior Judges, a Public Prosecutor, two University Professors appointed according to the subject, a lawyer with over ten years' professional practice, a State Attorney, a senior category Clerk of the Court and a member of the technical bodies of the General Council of the Judiciary with a Law Degree who shall act as

Secretary. When it is not possible to appoint University Professors, as an exception, University teachers may be designated.

Article 315.

Public examinations and competitions to cover vacancies in the Judicial Service, the Secretariat and the remaining personnel in the service of the Administration of Justice shall be announced at the request of the Autonomous Community where the vacancies occur, by the competent body, and in accordance with the terms of this Law.

CHAPTER III

APPOINTMENT AND TAKING OFFICE OF JUDGES

Article 316.

1. Judges shall be appointed by Order by the General Council of the Judiciary.
2. Senior Judges and Presidents shall be appointed by Royal Decree, at the proposal of the Council.
3. Presentation to Royal Decree shall be made by the Ministry of Justice, who shall endorse the appointment.

Article 317.

1. The appointments shall be submitted to the President of the Court or Tribunal to which it corresponds to grant or order to grant office to the appointed judges.
2. The Judges shall also be informed and also the Presidents of the Court of their previous assignment.
3. When the Presidents of the Chamber and Section or the Judges cease their duties in their appointed office in order to be appointed to a different post, they shall compose a review of the cases pending in the respective body, consigning the date of their initiation and their status, submitting a copy to the President of the Court.
4. On taking office the new incumbent shall examine the list or review created by his/her predecessor and shall endorse it if it is approved and acceptable.

Article 318.

1. Prior to taking office in their first post, members of the Judicial Service shall make the following sworn declaration:

«I swear (or promise) to faithfully observe and ensure the observance at all times of the Constitution and the rest of the legal system, to remain loyal to the Crown, and to administer justice in a correct and impartial manner, and to fulfil my judicial duties before all.»

2. The same oath or promise shall be made prior to taking up the first post of promotion in rank in the service.

Article 319.

1. Presidents, Senior Judges and Judges shall present themselves for taking office within twenty natural days following the date of publication of their appointment in the «*Boletín Oficial del Estado*» (Official State Gazette). For those assigned to a post in the same city in which they have served, the term shall be eight days. Those who have to swear or take oath shall take office within three days following the swearing of oath or promise.

2. The General Council of the Judiciary may extend these terms if there is just cause.

Article 320.

1. Swearing in of the President, Presidents of the Chambers and Senior Judges of the Courts shall be made in a public ceremony held before the Governing Chamber of the Court to which they have been assigned or before the High Court of Justice in the corresponding Autonomous Community.

2. Senior Judges of the Supreme Court and the High Courts of Justice who were appointed without having previously been a member of the Judicial Service shall swear, in the same act as their taking of office before the respective Governing Chambers, their oath or promise, in the terms established in Article 318 before the respective Governing Chambers.

Article 321.

1. Judges shall take oath, when appropriate, before the Governing Chamber of the Tribunal or High Court to which their destined Court is attached and also in a public hearing.

2. Swearing in shall take place in the Court to which the Judges have been assigned, in a public hearing and with the attendance of Court personnel. The formerly incumbent Judge shall hand over possession.

Article 322.

1. Whosoever refuses to swear the oath without just cause shall not take office and it shall be deemed that they have resigned their post and relinquished the Judicial Service.

2. The President of the Court or High Court shall inform the General Council of the Judiciary of the swearing of oath and taking of office or, if appropriate, the period which has elapsed without doing so.

Article 323.

1. If there is just impediment to the failure in presentation the relinquishing judge may be reinstated. Reinstatement shall be decided by the General Council at the petition of the interested party.

2. In this case the reinstated party shall swear oath or promise and take office within the term indicated, which shall not be greater than half the normal term.

3. If the post to which the incumbent judge was assigned had been covered, said judge shall be appointed to another of choice from among those corresponding to his/her category and for which he/she fulfils the legal requirements, and which had remained vacant in the competition. In any other case, assignment shall be compulsory.

CHAPTER IV

HONOURS AND MANNER IN WHICH JUDGES SHALL BE ADDRESSED

Article 324.

The President and the Senior Judges of the Supreme Court, the President of the National Court and the High Courts of Justice are addressed as Your Excellency. The Presidents of Provincial Courts and other Senior Judges shall be addressed as My Illustrious Lord/Lady and Judges shall be addressed as My Lord/Lady.

Article 325.

In official acts, Judges and Senior Judges shall not receive any higher address than that corresponding to their effective employment in the Judicial Service despite the fact that they may have a higher title in a different service or any other entitlements.

CHAPTER V

PROVISION OF POSTS IN THE COURTS, AND IN THE HIGH COURTS OF JUSTICE.

Article 326.

1. The professional promotion of Judges and Senior Judges within the Judicial Service shall be based on principles of merit and capacity, in addition to their suitability and specialisation for the jurisdictional duties corresponding to the various posts available.
2. Provision or allocation of the posts in the Judicial Service shall be made through competition in the manner determined by this Law except for the posts of Presidents of the Higher Courts and the National Court, Presidents of Sections and Senior Judges of the Supreme Court.
3. The General Council of the Judiciary in a reasoned decision, may temporarily decide not to announce specific vacancies, provided that they are being adequately addressed through Substitute Judges, when the needs of the administration of justice would advise giving preference to others of greater difficulty or work load.

Article 327.

1. Elected judges may not take part in the competition, nor those who are currently in one of the situations stipulated in this Law which would prevent their taking office.
2. In addition, Judges shall be banned from competition if they have not occupied the regulatory period in their post as determined by the General Council of the Judiciary, taking into account the nature and needs of the Administration of Justice, without said term being less than one year in compulsory assignment and two in a voluntary post.
3. Nevertheless, in the remaining cases, the General Council of the Judiciary, in a reasoned decision, may postpone the effective provision of a post for a Judge or Senior Judge when the person who has gained that post should give preferential attention to the body to which they were previously attached, in order to attend to delays which may be imputed to that Judge. This postponement shall have a maximum duration of three months, and if the delays have not been remedied within the term established in the reasoned decision for postponement, the judge shall lose his/her right to the new assignment.

Article 328.

The law which establishes staffing shall determine the criteria for classifying the Courts and establishing the rank of those who serve them.

Article 329.

1. The competitive examinations for the provision of judges shall be resolved in favour of those who, in addition to having the requisite rank, have the best level in the scale.
2. Competition for staffing of the contentious-administrative or labour courts shall be resolved in favour of those who have the rank of Senior Judge specialising in those jurisdictions or having belonged to the obsolete Division of Employment Tribunal Judges or the Labour Courts and who have the best level in the scale. In their defect, they will be covered by Senior Judges who provided service during at least three years, within the five years preceding the announcement, in the contentious-administrative and labour matters respectively. Failing this, the posts shall be covered by order of seniority established in section 1. Those who obtained a post shall be required to participate, prior to taking office at their new allocation, in specific activities according to regulations established by the General Council of the Judiciary for cases of changes in jurisdiction. In the event that the vacancies were covered by promotion, the General Council of the Judiciary shall also establish specific and compulsory training activities which must be undertaken by the Judges who are promoted, prior to taking office in their new posts.
3. Competition for staffing of the Juvenile Courts shall be resolved in favour of those who have the rank of Senior Judge and who can attest to the corresponding specialisation in juvenile matters in the Judiciary School and who have the best level on the scale. Failing this, the posts

shall be covered by Senior Judges who have served a minimum of three years during the five years prior to the date of the announcement, in the juvenile jurisdiction. If these conditions are not met, the posts shall be covered by order of seniority as established in section 1.

Those obtaining a post as well as those obtaining a post when vacancies had to be covered due to promotion, shall participate, prior to taking office in their new assignments, in the specialist activities concerning juvenile matters established by the General Council of the Judiciary.

4. Competition for staffing of Commercial Courts shall be resolved in favour of those attesting to specialisation in the matters pertinent to said Courts, obtained by successfully completing the specialist examinations according to regulations determined by the General Council of the Judiciary and having the best level on the scale. Failing this, the posts shall be covered by Senior Judges who attest to having served the most years in the service of the civil courts. Failing this, allocation shall be by order of seniority established in section 1.

Those obtaining a post shall, prior to taking office in their new posts, participate in specialist training activities according to the regulations established by the General Council of the Judiciary.

Should the vacancies be filled due to promotion, the General Council of the Judiciary shall also establish specific and compulsory training activities which shall be carried out prior to the promoted judges taking up their new posts.

5. Competition for staffing the Central Enquiry Courts, Central Criminal Courts, Central Juvenile Courts and those of Penitentiary Surveillance shall be resolved in favour of those who have served in the criminal jurisdiction for eight years immediately prior to the date of the announcement, failing this criterion, the posts shall be allocated to those who hold the highest level on the scale.

Competition for staffing of the Central Contentious-administrative Courts shall be resolved in favour of those having specialisation in that jurisdiction; failing this, by those who have served in that jurisdiction for eight years immediately prior to the date of the announcement; failing this criterion, the posts shall be allocated to those who hold the highest level on the scale. In this latter case those who obtained the post should participate, prior to taking up their new post, in specific training activities according to the regulations established by the General Council of the Judiciary for cases of change of jurisdictional sector.

6. Members of the judicial service appointed to the Contentious-administrative Courts, the Labour Courts, the Commercial Courts or the Courts of First Instance with jurisdiction in commercial matters who have acquired the condition of specialist in their respective divisions may continue in their post.

Article 330.

1. Competitions for the provision of posts of Senior Judges of the Chambers or Sections of the National Court, the High Courts of Justice shall be resolved in favour of those who having the requisite rank also have the best level on the scale without prejudice to the exceptions established in the following sections.

2. In each Contentious-administrative Chamber or Section of the High Courts of Justice one of the posts shall be reserved for a Senior Judge specialising in that jurisdictional division with preference for the person with the highest level on the scale. If the Chamber or a Section comprises five or more Senior Judges, the number of posts covered by this system shall be two, maintaining identical proportions in the successive increments. However, if a member of the Chamber or Section were to acquire the condition of specialist in this sector he/she may continue in his /her post until the first post for a specialist falls vacant. In competitions for the provision of the remaining posts those Senior Judges who have been serving in that jurisdiction for the eight years immediately prior to the date of the announcement shall be given preference.

3. In each Labour Chamber or Section of the High Courts of Justice, one of the posts shall be reserved for a Senior Judge specialising in that jurisdictional division or who has been a Senior Judge of the obsolete Employment Tribunal with preference for the person with the highest level on the scale. If the Chamber or Section comprises five or more Senior Judges, the number of places covered for this system shall be two, maintaining identical proportions in successive increments.

Nevertheless, if a member of the Chamber or Section were to become a specialist in this section he/she may continue in their post until the first vacancy occurs for a specialist. In the competitions for staffing the remainder of the posts those Senior Judges who have served in that jurisdiction for the eight years immediately prior to the date of the announcement shall have preference.

4. In the Civil and Criminal Chambers of the High Courts of Justice one out of every three posts shall be covered by a lawyer of renowned prestige with over ten years Professional practice in the Autonomous Community, appointed at the proposal of the General Council of the Judiciary on a short-list presented by the legislative Assembly; the remaining posts shall be covered by Senior Judges appointed at the proposal of the General Council of the Judiciary from among those who have served ten years in the civil or criminal jurisdiction and who have special knowledge of Civil, Regional or Special Law proper to the Autonomous Community .

Should there be appeal sections such as those referred to in Article 73.6, the posts in those sections shall be covered according to the terms of this Article.

When a perceptible and continued difference in work volume of the various Chambers of the High Courts of Justice requires, Senior Judges from any of these Courts, with the approval of the Governing Chamber following a proposal of the President of the Court, shall be attached by the General Council of the Judiciary, either totally or partially, without this implying any remunerative benefit, to another Chamber of the same High Court of Justice. For the attachment the seniority on the scale and the speciality or experience of the Senior Judges affected and, if possible their preferences, shall be taken into account.

5. Competition for provision of posts for the Provincial Courts shall be adjusted to the following regulations:

a) If there are various sections and these are divided by jurisdictions, those Senior Judges who have served in the corresponding jurisdiction for the six years immediately prior to the date of the announcement shall be given preference. Seniority obtained in mixed bodies shall be computed as half for these sole purposes.

b) If one or various sections of the Provincial Courts hear in second instance appeals lodged against judgments of any type delivered by the Commercial Courts, preference shall be given to those Senior Judges who, attesting to specialisation in matters proper to those Courts obtained by successful completion of the selective examinations regulated by the General Council of the Judiciary, have the highest level on the scale. Failing this, the posts shall fall to Senior Judges who attest to having remained the most time in civil jurisdictions. Failing this, the posts shall fall to Senior Judges who attest to having remained the most time in mixed jurisdictions.

6. In the absence of the criteria mentioned in sections 2 to 5, the provision of posts shall be resolved pursuant to the terms of section 1 of this Article.

7. Competitions for the provision of posts in the Chambers of the National Court shall be resolved in favour of those who hold the corresponding specialisation in the respective field; failing this, by those who have served in the corresponding jurisdiction for the eight years immediately preceding the date of the announcement; and in the absence of these criteria, the judge with the best level on the scale shall be selected.

The provision of posts for the Appeals Chamber of the National Court shall be resolved in favour of those with more than fifteen years seniority in the service, having served for at least ten years in the criminal jurisdiction, and preferably qualified as specialists in this discipline.

8. In the contentious-administrative and labour divisions, the number of specialist Senior Judges announced shall not exceed the number of vacancies available on the date of the announcement.

Article 331.

1. Those who serve in a High Court of Justice without having previously been a member of the Judicial Service, shall do so for the sole purposes of serving in that Court, without the possibility of being appointed for a different service, except for the possible promotion to the Supreme Court for the rota of Lawyers and other lawyers with recognised competence referred to in Article 343.

2. For all other purposes they shall be considered as members of the Judicial Service.

Article 332.

Those who rise to the rank of Senior Judge by means of selective examination with specialisation in the contentious-administrative or labour section shall retain the right to compete for places in other jurisdictions in accordance with their seniority on the common scale. For posts in their speciality only the time spent in that post shall be computed.

Article 333.

1. The posts of President of the Chamber of the National Court as well as those of President of the Chamber of the High Courts of Justice shall be awarded for a period of five years at the proposal of the General Council of the Judiciary from among Senior Judges who have served for ten years in that category and eight in the jurisdiction in question. However, the Presidency of the Appeal Chamber of the National Court shall be allocated from among Senior Judges with over fifteen years seniority in the service and who have worked for at least ten years in the criminal jurisdiction, with preference given to those who are specialists. The posts of President of the Section of the National Court, High Courts of Justice and Provincial Courts shall be covered by competition which shall be resolved pursuant to the regulations established in Article 330.

2. Those judges who have been subject to disciplinary sanctions for committing a serious offence which has not been cancelled from their record shall not be eligible for such Presidencies.

Article 334.

The posts remaining vacant due to lack of applicants shall be filled by promotions or by those promoted to the necessary category, according to the corresponding rota.

Article 335.

1. The posts of President of the Chamber of the National Court shall be allocated in the manner established in Article 333.

2. The Presidency of the National Court shall be allocated by the General Council of the Judiciary for a period of five years, from among Senior Judges with fifteen years service in the category, having the appropriate conditions for the post as established in this Law for Presidents of the High Courts of Justice.

3. The post of Head of the Inspection Service of the General Council of the Judiciary shall be filled by a Senior Judge of the Supreme Court with two years' seniority in the category or by a Senior Judge with ten years' service in the category. In the latter case, while carrying out the post, he/she shall be considered as Senior Judge of the Supreme Court.

Article 336.

1. Presidents of the High Courts of Justice shall be appointed for a period of five years at the proposal of the General Council of the Judiciary from among Senior Judges who have served for ten years in the category, have applied for the post, and who have served for at least fifteen years in the Judicial Service.

2. The appointment of President of the High Court of Justice shall take effect from the moment it is published in the «*Boletín Oficial del Estado*», (Official State Gazette) without prejudice to its obligatory publication in the *Boletín Oficial de la Comunidad Autónoma* (Official Gazette of the Autonomous Community).

Article 337.

Presidents of the Provincial Courts shall be appointed for a period of five years at the proposal of the General Council of the Judiciary from among Senior Judges who apply from among those with ten years in the Service.

Article 338.

Presidents of the National Court, the High Courts of Justice, the Chamber of the National Court and the Chamber of the High Courts of Justice shall relinquish their post on any of the following grounds:

- 1.º On expiry of their mandate, unless they are confirmed in the post for successive periods of five years.
- 2.º On resignation accepted by the General Council.
- 3.º On cancellation as ruled in a disciplinary procedure.

Article 339.

The President of the National Court and the Presidents of the High Courts of Justice when they leave their post shall be attached, at their choice, to the Court in which they cease their services or to that of their last post until allocation of the post they had chosen having preference moreover during the three years following their expiry to any post of their category of those which should be allocated by voluntary competition not reserved for specialists.

Article 340.

Presidents of the Chamber of the National Court, the Presidents of the Chamber of the High Courts of Justice and the Presidents of the Provincial Courts leaving their post shall be attached, at their choice, to the Court where they ceased their services or to that of their previous post until the post they had chosen was adjudicated, having preference, moreover, during the two years following their cessation, for any post of their category of those to be allocated by voluntary competition not reserved for specialists.

Article 341.

1. For the provision of posts of President of the High Courts of Justice and the Courts in those Autonomous Communities which have a Court of Special Civil or Regional Law as well as their own official language, the General Council of the Judiciary shall evaluate as merit the specialisation in these Special Civil or Regional laws and knowledge of the language of the Community.
2. The criteria for evaluation on the knowledge of language and Special Civil or Regional Law of the aforementioned Autonomous Communities, as a merit awarded preference in competition for the jurisdictional bodies in their territory, shall be determined by regulations.

CHAPTER VI

PROVISION OF APPOINTMENTS IN THE SUPREME COURT

Article 342.

The Presidents of the Chamber of the Supreme Court shall be appointed for a period of five years, at the proposal of the General Council of the Judiciary from among Senior Judges of said Court having three year's service in the category.

Article 342 bis

The Senior Judge of the Supreme Court competent to hear the authorisation of the National Intelligence Centre's activities which affect the fundamental rights recognised in Article 18.2 and 3 of the Constitution, shall be appointed for a period of five years, at the proposal of the General

Council of the Judiciary from among Senior Judges of said Court with three years' service in the category.

Article 343.

In the various Court Chambers, for every five posts of Senior Judges, four shall be allocated from among members of the Judicial Service having served for at least ten years with the rank of Senior Judge and a minimum of fifteen years in the Judicial Service, and the fifth from among lawyers and other legal professionals, all of renowned competence.

Article 344.

Out of the four posts reserved for the Judicial Service:

a) Two shall correspond to Senior Judges who have attained this rank by means of the corresponding selection procedure in the civil and criminal jurisdiction, or those who have successfully completed the examinations with this category or, according to the jurisdiction, two shall correspond to Senior Judges specialising in the contentious-administrative or labour jurisdiction or who belong in the latter category to the abolished Division of Employment Judges. In this case fifteen years in the Judicial Service shall be required and only five in the category.

For the purposes of reservation of posts in the civil jurisdiction, Senior Judges who have successfully completed the commercial specialisation examinations shall be comparable to those who have successfully completed selection procedures for the civil jurisdiction.

b) Two shall be allocated to Senior Judges who fulfil the general conditions for access to the Supreme Court as indicated in the previous Article.

Article 345.

Prominent Lawyers and legal professionals may be appointed Senior Judges of the Supreme Court, provided that they fulfil the established requirements and have sufficient merit in the opinion of the General Council of the Judiciary, and have practised professionally for a period of more than fifteen years preferably in the branch of law corresponding to the jurisdiction of the Chamber for which they were appointed.

Article 346.

When the number of Senior Judges of a Chamber does not result in multiples of five, a further post shall be adjudicated to group b) of Article 344; to group a) of the same Article; or to the group of prominent lawyers successively and in this order.

Article 347.

Those having access to the Supreme Court without previously being a member of the Judicial Service shall be incorporated on this scale occupying the last post in the category of Senior Judges of the Supreme Court. They shall be deemed to have fifteen years' service for all effects and purposes.

CHAPTER VII

STATUS OF JUDGES

Article 348.

Judges may be deemed to act with any of the following status levels:

- a) Active service.
- b) Special services.
- c) Voluntary leave of absence.

- d) Suspension of duties.
- c) Absence on grounds of violence against women.

Article 348 bis.

In the event of carrying out any other public or private activities a Senior Judge of the Supreme Court shall pass to the category of Senior Judge with the sole exceptions of the activities indicated below:

1. Member of the General Council of the Judiciary.
2. Senior Judge of the Constitutional Court.
3. Member of the international High Courts of Justice.
- 4.- General State Public Prosecutor.
- 5.- Head of the Inspection Service of the General Council of the Judiciary.

Article 349.

1. Judges shall be on active service when they occupy a post corresponding to the Judicial Service, when they are attached provisionally, when they have been appointed Assistant Judges or when they have been granted a secondment on a temporary basis.
2. When a post held by a Judge or Senior Judge is abolished or reconverted due to a change of jurisdictional order, this Judge shall be attached to the service of the President of the High Court of Justice in the terms established in Articles 118.2 and 3.

Article 350.

1. The General Council of the Judiciary may grant Judges a secondment which shall not exceed one year and which may be extended by a further year:
 - a) In order to provide services to another Court with or without relief of duties;
 - b) In order to provide services in the Ministry of Justice with or without relief of duties;
 - c) In order to participate in international legal cooperation missions, when not subject to declaration of special services.
2. Secondments require conformance of the interested party, as well as a report from his/her hierarchical superior and that of the Inspection Service of the General Council of the Judiciary. They may only be granted in a fully reasoned decision, if the prevalent interest of the service and the needs of the Administration of Justice so permit.

Article 351.

Judges shall be declared on special service:

- a) When they are appointed President of the Supreme Court, State Public Prosecutor, Member of the General Council of the Judiciary, Senior Judge of the Constitutional Court, Ombudsman or his/her Aides, Councillor of the Audit Court, Councillor of State, President or Member of the Court of Defence of Competence, Director of the Data Protection Agency or member of the International High Courts of Justice, or incumbents or members of the equivalent bodies of the Autonomous Communities.
- b) When they are authorised by the General Council of the Judiciary to carry out an international mission for a specific period, which exceeds six months, in international bodies, governments or foreign public institutions or in international cooperation programmes prior to declaration of interest by the Ministry of Foreign Affairs.
- c) When they acquire the condition of civil servants in International Organisations or those of a supranational nature.

d) When they are appointed as Legal Secretary to the Court of Justice of the European Communities, the Constitutional Court, the General Council of the Judiciary or the Supreme Court or Senior Judges of the Technical Office of the Supreme Court, or are attached to the service of the Ombudsman or an equivalent body in the Autonomous Communities.

e) When they provide services in virtue of their appointment by Royal Decree, or by Decree in the Autonomous Communities, in posts with rank which is no higher than that of Director General.

Article 352.

Senior Judges of the Supreme Court shall be declared on special service if they are designated to carry out any of the following offices:

- a) Member of the General Council of the Judiciary.
- b) Senior Judge of the Constitutional Court.
- c) Member of the International High Courts of Justice.
- d) General State Prosecutor's Office.
- e) Head of the Inspection Service of the General Council of the Judiciary.

Article 353.

The status of special services shall be officially declared by the General Council of the Judiciary or at the request of the interested party, having verified the case in question and with effect from the moment that the corresponding appointment is announced.

Article 354.

1. Judges with special service status shall receive remuneration for the post or office held without prejudice to their right to remuneration for seniority in the judicial service.
2. For judges with special service status the amount of time spent in that post shall be computed for the purposes of promotion, seniority and pensions. They shall have the right to reserve the post they occupy, when passing to that status or that which they would have been able to obtain had they not been on special status service.

Article 355.

When they cease from carrying out the post or office which carries special service status, they shall request reinstatement to active service within a maximum term of ten days from the following day to their ceasing their duties, and shall return to their post within the twenty days immediately following that moment; should they fail to do so, they shall be declared as having status of voluntary leave of absence, having effect from the day they ceased to act in the post or office held. Their reinstatement shall have financial and administrative effects from the date of application.

Article 356.

Status of voluntary leave of absence shall be declared at the judge's request in the following cases:

- a) When working on active service in a Division or Scale of the Public Authorities or in the Public Prosecution Service.
- b) When the judge undertakes or provides services in bodies or institutions in the public sector and when no other status corresponds to him/her. In this case having ceased the duties or service, he/she shall be required to request reinsertion to active service within a maximum term of ten days from the date following cessation of those duties. Failure to do so shall result in a status of voluntary absence of leave for personal reasons.

c) For personal reasons, provided that the judge has served in the judicial service for the immediately preceding five year period, without this situation enduring for less than two years.

The declaration of this status shall be subject to the needs of the Administration of Justice. It shall not be declared when the judge is subject to disciplinary action.

d) For childcare purposes, for a period not exceeding three years for the care of each child, both in the case of natural and adopted children, due to permanent adoption or pre-adoptive care, from the date of birth or from the date of the judicial or administrative decisions confirming the adoption respectively. Successive children shall give rise to the right to further periods of leave of absence which, if appropriate, shall end the previous period being used. When the father and mother work, only one parent may exercise this right.

e) Judges shall also have the right to a period of leave not exceeding three years to care for family members for whom they are responsible, up to a second degree, inclusive of consanguinity or affinity, who on grounds of age, accident or illness are unable to care for themselves or carry out remunerated activity.

This period of leave applies exclusively to one family member. Should there be another family member under the same situation, giving thus rise to a new period of leave of absence, the commencement of the latter one shall put an end to the previous one.

This leave of absence and that regulated in the previous paragraph constitute an individual right of members of the judicial service. In the event that two members use the right to take leave for the same case, the General Council of the Judiciary may limit their simultaneous exercise of the right on reasoned grounds relating to the needs and operation of services.

f) When the judge is appointed to a political office or to one of trust, except for the cases described in Article 351, or when he/she is candidate in the elections for access to public office in the European Parliament, the Congress of Deputies, the Senate, Legislative Assemblies of the Autonomous Communities or Local Corporations. If the judge fails to be elected, he/she must communicate this fact to the General Council of the Judiciary within a term of thirty days, in order to continue with the status of voluntary leave or return to active service.

Article 357.

When a Senior Judge of the Supreme Court requests voluntary leave of absence and this is granted, he/she shall lose that condition, except in the cases described in sections d) and e) of the previous Article and Article 360 bis. In all other cases the status shall be that of voluntary leave of absence within the category of Senior Judge.

Article 358.

1. Voluntary leave of absence in its various forms does not lead to reservation of a post. The Judge, while serving in that post, shall not accrue remuneration nor shall the term spent in that situation be computed for the purposes of promotion, seniority and pensions, except in the case of section 2 of this Article and according to the regulations of categories of pension.

2. Leave of absence for childcare purposes or to care for family members as indicated in Article 356 sections d) and e) shall be exempted; the period in these cases shall be computed for the purposes of triennial bonus periods and pensions. For the first two years judges shall have the right to reserve the post in which they perform their duties and to computation of the time for the purposes of seniority. Once this period has elapsed, the reservation shall be to a post in the same province with the same rank, however, they must request one month prior to the end of the maximum period of absence, reinstatement to active service; failure to do so shall result in an official declaration of status of voluntary leave of absence for personal reasons.

3. Those judges on leave referred to in Article 356 section f), should they request return to active service, shall be attached to the President of the High Court of Justice of the Autonomous Community of their last post, having preference to obtain a post in their category in the province, or if this is not available, in the Autonomous Community of their last assignment.

Article 359.

1. Return to active service of the judge who has been on leave of absence for personal reasons for a period exceeding 10 years shall require a prior declaration of aptitude from the General Council of the Judiciary, which shall compile reports and take the appropriate action to verify them.

2. Judges in an administrative situation of voluntary leave of absence requesting return to active service, and if appropriate, who obtain the corresponding declaration of aptitude, shall be required to participate in all announced competitive examinations to cover posts for their category in order to obtain an assignment. If this is not the case they shall be declared as having status of voluntary leave of absence for personal reasons and the declaration of aptitude, if obtained, shall be rendered ineffective.

Article 360.

Once judges have returned to active service from voluntary leave of absence for the causes established in Article 356 letter f), they shall be unable to access any post in the judicial service, unless it is allocated by strict seniority, for the next five years.

Article 360 bis.

1. Judges who have been victims of gender violence may request leave of absence on the grounds of violence against women without needing to have served a minimum term of service. It shall be possible to remain in this administrative situation for a maximum term of three years.

2. During the first six months they shall be entitled to reserve their work assignment and that period shall be quantifiable for the purposes of promotion, triennial bonus periods and pensions.

Despite this fact, when in order to ensure effective protection of the victim judicial protective action so requires, these periods may be subject to three monthly extensions up to a maximum of eighteen, the period in which in accordance with the previous paragraph they shall be entitled to reserve their work appointment with the same effects as those indicated in said paragraph.

3. Judges who are on leave due to violence against women shall receive their full salary during the first two months of this leave period and, if appropriate, family assistance for children in their care.

4. Return to active service of judges with administrative status of leave on the grounds of violence against women for a period not exceeding six months shall be to the same court where their previous duties were carried out; if the period of leave exceeds 6 months, the return to service shall require the judges to participate in all competitive examinations announced to cover vacancies in their category until they are assigned a post. If this is not the case, their status shall be declared that of voluntary leave of absence on personal grounds.

Article 361.

1. Judges shall be declared suspended from their duties, either provisionally or definitively, in those cases established in this Law.

2. Judges who have been suspended shall be prevented from carrying out their duties during the suspension period.

Article 362.

1. Provisional suspension may be granted during the course of a judicial or disciplinary procedure.

2. Provisional suspension during the disciplinary procedure should not exceed six months, except in the case of halting the proceedings for any cause attributable to the interested party.

Article 363.

Judges who have been suspended provisionally may receive their basic salary except when the disciplinary proceedings are brought to a halt due to a cause attributable to said judges, which

shall entail the loss of any remuneration while that stoppage is in force. In addition, no salary shall be paid should they fail to appear as required or act in default.

Article 364.

When suspension has not been declared definitive, or when dismissal has not been decided on, the duration of that suspension shall be computed as active service and immediate reinstatement of the suspended party to their post shall be ordered, with recognition of all financial rights and any others which are appropriate having taken effect since the date of the suspension.

Article 365.

1. Suspension shall be deemed to be definitive when it is imposed in virtue of a conviction or disciplinary sanction, computing the time of the provisional suspension.
2. Definitive suspension of more than six months shall imply loss of post. The resulting vacancy shall be covered in the ordinary manner.
3. Definitive suspension shall imply the loss of all rights inherent in the post of judge until, if appropriate, he/she returns to public service.
4. While the suspension term continues, no change shall be made in the administrative situation.

Article 366.

1. The definitively suspended judge shall request his/her return to active service one month prior to the end of the suspension period. The return shall produce financial and administrative effects from the date that the criminal or disciplinary liability was removed.
2. If return is not requested within the time period indicated in the previous paragraph, the judge shall be declared on voluntary leave of absence on personal grounds, with effect from the date on which the suspension period ends.

Article 367.

1. Return to active service of the suspended judges shall require a prior declaration of aptitude from the General Council of the Judiciary, which shall compile reports and carry out the necessary action to check them.
2. Following a declaration of aptitude, judges shall be required to compete in all the examinations announced to cover vacancies in their category until an assignment is obtained. Failure to do so shall result in a declaration of voluntary leave of absence on personal grounds and the declaration of aptitude shall be rendered ineffective.

Article 368.

When there are a number of requests for allocation of vacancies among those who wish to return to active service, allocation shall be governed by the following order:

- a) Suspensions.
- b) Rehabilitated judges.
- c) Judges on voluntary leave of absence.

Article 369.

Change in administrative status may be implemented provided that the judges in question fulfil the formal requirements in each case without any need to return to active service.

CHAPTER VIII
TIME OFF AND LEAVE

Article 370.

Repealed

Article 371.

1. Judges shall be entitled to annual leave of one month for holidays, except those assigned to the Canary Islands who are entitled to accumulate in a single holiday period leave corresponding to two years.

2. Presidents of the Chamber and Senior Judges of the Supreme Court and the remaining Courts shall take this leave during the month of August, with the exception of those to whom formation of the Chamber established in Article 180 corresponds.

Article 372.

Annual holiday leave may be denied for the period requested when, due to pending cases in a Court as a result of an accumulation of leave applications in the territory, or when due to other exceptional circumstances, the regular operation of the Administration of Justice could be damaged.

Article 373.

1. Judges shall be entitled to leave of 15 days on matrimonial grounds.

2. Leave shall also be granted in the case of giving birth, adoption and reception of children in both pre-adoptive and permanent adoption cases, the duration and condition of which shall be regulated by general legislation in this matter. The General Council of the Judiciary shall adapt the regulations to the specific particularities of the judicial service.

In cases of international adoption, when it is necessary for the parents to travel to the country of adoption of their child, the leave stipulated in this Article may commence up to four weeks prior to the decision granting the adoption.

3. They shall be entitled to leave, without restriction on their salaries, to undertake studies relating to their judicial duties prior to a favourable report from the President of the Corresponding Court which shall take into account the needs of the service.

Once this leave is complete, a report shall be submitted to the General Council of the Judiciary detailing the work carried out, and if the content is not sufficient to justify the leave period it shall be compensated with the time determined for the interested party's holiday leave.

4. They shall also be granted three day leave periods, without these periods exceeding six periods of leave in a natural year, nor one each month.

In order to obtain leave, applicants shall be required to justify the need for said leave to their respective seniors from whom they shall be required to obtain authorisation and who may refuse this when the period coincides with case announcements, hearings or deliberations, unless it is possible to justify that the petition results from an unforeseen or urgent circumstance

5. In the event of death, accident or serious illness of the spouse, or partner or of a family member up to the first degree of consanguinity or affinity, judges shall be able to take leave of three working days which may be up to five working days when it is necessary to travel to another location, in which case this period shall amount to five working days.

This leave shall be reduced to two and four working days respectively when death and the other circumstances indicated affect family members up to a second degree of affinity or consanguinity.

6. Due to birth, fostering or adoption of a child, the judge shall be entitled paternity or maternity leave of fifteen days from the date of birth or the administrative or judicial decision of fostering, or the judicial decision constituting the adoption.

7. The judges shall be entitled to leave and time off for conciliation of personal family and working life, and for reasons of gender violence. The General Council of the Judiciary shall, in a regulatory manner, adapt the specific aspects of the judicial service to the regulations of the General State Authority current in this matter.

Article 374.

When judges are unable to attend their office due to illness, they shall inform the President of the immediately dependent office, and should the illness continue for longer than five days, shall be required to request time off, providing proof of this and medical justification of the precise time required for recovery.

Article 375.

1. After six months time off due to illness, judges shall only be entitled to basic remuneration based on family commitments without prejudice to the complement corresponding to the judge, pursuant to the applicable Social Security system.

2. Study leave shall in general entitle judges to receive basic remuneration and allowance based on family commitments.

3. Time off due to illness up to the sixth month inclusive, and other leave and time off shall not affect the remuneration of those on leave or who have obtained time off.

Article 376.

When exceptional circumstances require, leave or time off may be suspended or revoked and Judges shall be ordered to rejoin their Court or Tribunal.

Article 377.

The legal system for leave and time off shall be implemented according to the regulations determined by the appropriate authority which shall also determine the duration thereof, and any other aspects which are not established in the present Law.

TITLE II

Judicial independence

CHAPTER I

SECURITY OF TENURE OF JUDGES

Article 378.

1. All judges carrying out judicial duties shall enjoy security of tenure.

2. Those who have been appointed for a specific term shall only enjoy tenure during that time.

3. Cases of relinquishment, absence, transfer and promotion shall be governed by the specific rules established in this law.

Article 379.

1. The office of Judges shall be relinquished on the following grounds:

a) Due to resignation from the Judicial Service. This shall include the cases indicated in 322 and 357.3.

b) Due to loss of Spanish nationality.

c) In virtue of a disciplinary sanction of dismissal from the Judicial Service.

d) Due to a custodial prison sentence for unlawful misconduct. In cases in which the sentence does not exceed six months, the General Council of the Judiciary in a reasoned manner and taking into consideration the crime committed, may substitute the loss of the post of Judge for the sanction contained in Article 420.1. d).

e) On the grounds of one of the causes of incapacity unless retirement is appropriate.

f) Due to retirement.

2. Dismissal in the cases stipulated in sections b), c), d) and e) of the previous section shall be decided following proceedings with the participation of the Public Prosecutor.

Article 380.

Those who have lost the position of Judge for any of the reasons indicated in sections a), b), c) and d) of the previous Article may apply to the General Council of the Judiciary for their reinstatement, having complied with the terms of the Criminal Code, if appropriate.

Article 381.

1. Reinstatement shall be agreed by the General Council of the Judiciary when it is possible to attest to the definitive cessation or non existence, if appropriate, of the issue giving rise to the dismissal, having evaluated all the circumstances involved.

2. If reinstatement is refused it shall not be possible to initiate a new reinstatement procedure again for a subsequent period of three years, a term which shall be valid from the date of the initial refusal decision of the General Council of the Judiciary.

Article 382.

The Judge who has been reinstated shall be assigned to his/her post in accordance with the terms of this Law.

Article 383.

Judges shall only be suspended in the following cases:

1.º When it has been declared that there is reason to proceed against them for offences committed during the exercise of their duties.

2.º When due to any unlawful misconduct, a custodial order or release on bail or proceedings have been issued against them.

3.º When the suspension is decreed in a disciplinary procedure or one of incapacity, either provisional or definitive.

4.º When a final judgment of guilty has been delivered in which suspension is the principal sentence or accessory imposed when dismissal is not appropriate.

Article 384.

1. In cases applicable to the two first sections of the previous Article, the Judge or Court hearing the case shall inform the General Council of the Judiciary which shall make effective the suspension, following a hearing with the Public Prosecutor.

2. In the case of section 4, the Court shall remit attestation of the judgment to the General Council of the Judiciary.

3. The suspension shall continue in the cases of sections 1 and 2 of the previous Article, until the final judgment or order of dismissal. In other cases, for the full duration of the penalty, sanction or cautionary measure.

Article 385.

Judges may only retire:

1.º On grounds of age.

2.º On grounds of permanent incapacity to perform their duties.

Article 386.

1. The retirement of judges on grounds of age is compulsory and shall be decreed sufficiently in advance for resignation to effectively take place on reaching the age of seventy.

2. Judges may also retire after reaching sixty five years provided that they have informed the General Council of the Judiciary with six months prior notification, all of which is without prejudice to the other cases of legally established voluntary retirement.

Article 387.

1. When a judge suffers permanent incapacity the respective Governing Chamber, either at its own instigation or that of the Public Prosecutor's Office or the interested party, shall formulate a retirement proposal to the General Council of the Judiciary.

2. The case for retirement on the grounds of permanent incapacity shall be initiated in addition by the General Council of the Judiciary, or at the request of the Public Prosecutor.

3. Those retired on grounds of permanent incapacity may be reinstated and return to active service if it can be attested that the grounds for retirement no longer apply.

Article 388.

Procedures for dismissal, transfer, retirement on grounds of permanent incapacity and reinstatement shall comprise an audience with the interested party, and a report from the Public Prosecutor and the respective Governing Chamber without prejudice to the other appropriate attestations and the issue shall be resolved by the General Council of the Judiciary.

CHAPTER II

INCOMPATIBILITIES AND PROHIBITIONS

Article 389.

The post of Judge is incompatible with:

1.º The exercise of any other jurisdiction unconnected with the Judiciary.

2.º Any popularly elected post or political appointment of the State, Autonomous Communities, Provinces and other local bodies and institutions dependent on any of them.

3.º Employment or office remunerated or funded by the State Authorities, Parliament, the Royal Family, Autonomous Communities, Provinces, Municipal Districts and any other bodies, organisations or business dependent on any of these.

4.º All types of employment in the Courts and Tribunals of any jurisdiction.

5.º Any remunerated employment, post or service except for teaching or legal research, in addition to literary, artistic, scientific and technical production and creation and publications

deriving therefrom, pursuant to the terms of legislation on incompatibilities of personnel in the service of Public Authorities.

6.º The practice of Law and duties of *Procurador*.

7.º All types of legal advice, irrespective of whether or not it is remunerated.

8.º Practice of any commercial activity for own benefit or that of others.

9.º Duties of the Director, Manager, Administrator, Board Member, collective partner or any other post which implies direct, administrative or financial intervention in companies or businesses, either public or private, of any kind.

Article 390.

1. Those who, while engaged in any employment, post or service of those expressed in the previous article are appointed as Judges shall opt, within a term of eight days for either post or cease from performing the incompatible activity.

2. Those who do not make use of said option within the stipulated term shall be deemed to have relinquished their judicial appointment.

Article 391.

Senior Judges who are linked by marriage or a similar civil partnership, or who are related up to a second degree of consanguinity or affinity shall not belong to the same Chamber of Justice or Provincial court, unless, due to legal provision or application of the terms of Articles 155 and 198.1 of this Law there were various sections, in which case they may join different sections but may not form a Chamber together.

Judges linked by any of the relationships referred to in the previous paragraph may not belong to the same Governing Chamber. This provision is applicable to Presidents.

Article 392.

1. Judges shall not intervene in the ruling on appeals relating to judgments issued by those having one of the relations indicated in the preceding Article, nor in subsequent stages of the procedure which by virtue of their nature imply an assessment of their previous actions.

In virtue of this principle, in addition to the requirement of abstention, provided that any of the relationships referred to in the preceding Article are present, the following are incompatible:

a) Investigating Judges with single bench Judges of the Criminal Division who have heard oral proceedings and Senior Judges of the same Section hearing the same case.

b) Senior Judges of any Chamber of Justice irrespective of whether or not it constitutes an organic section assigned to hear the appeals in respect of judgments of a court, irrespective of the jurisdiction to which it belongs, with Judges and Senior Judges of the same body. The Chambers and Sections of the Supreme Court are exempted from this incompatibility.

2. The following shall be incompatible when the relations referred to in the preceding Article are present:

a) Presidents and Senior Judges of the Criminal Chamber of the National Court and those of the Provincial Courts, with respect to members of the Prosecution Service of the corresponding Public Prosecutor's Office except when the Provincial Court has more than three Sections.

b) The Presidents and Senior Judges of the Chamber of the Civil and Criminal Chamber with respect to the Chief Public Prosecutor and the Deputy Prosecutor of that body.

c) Investigating Judges and single bench Judges of the Criminal Division with respect to Public Prosecutors assigned to a Public Prosecution Office in whose territory they exercise their jurisdiction, with the exception of districts where there are more than five bodies of the category in question.

d) Presidents, Senior Judges and Judges with respect to the Clerks of the Court and other personnel in the service of the administration of Justice which depend directly on them.

Article 393.

Judges and Senior Judges may not perform their duties:

1. In the Courts and Tribunals where their spouse or a relative up to second degree of consanguinity or affinity habitually works as Lawyer or *Procurador*. This incompatibility shall not be applicable in areas where there are ten or more Courts of First Instance and Enquiry or Chambers with more than three sections.
2. In a Provincial Court or other court which has within its territorial area a population in which the judge, his her/ spouse or relatives up to a second degree of consanguinity, have financial interests or have interests which could obstruct the impartial performance of their jurisdictional duties. Populations of over one hundred thousand inhabitants in the area where the jurisdictional body is based are exempted.
3. In a Court where they have practised as a lawyer or in the office of *Procurador* for two years prior to their appointment.

Article 394.

1. When an appointment gives rise to a situation of incompatibility of the type mentioned in the preceding Articles, it shall be rendered ineffective and the Judge or Senior Judge shall receive a compulsory assignment without prejudice to any disciplinary liability in which they may have incurred.
2. When the situation of incompatibility results from a supervening conflict of interest, the General Council of the Judiciary shall proceed to the compulsory transfer of the Judge, in the event of case number 1 of the preceding Article, or the last one appointed in the remaining cases. If appropriate, the government may be asked to transfer the incompatible Public Prosecutor if he/she has less seniority in the post. The compulsory assignment shall not involve change of residence if there is a vacancy and in that case shall not be announced for competition.

Article 395.

Judges shall not be permitted to belong to political parties or unions or be employed in their service and they shall be prohibited from:

- 1.^o Addressing either congratulations or censure to any powers, authorities and public servants of official corporations, as a result of their actions, nor as members of the Judiciary shall they attend any public acts or meetings which are not of a judicial nature, except those which are designed to pay respect to the King, or for those acts which have been convoked or where attendance has been authorised by the General Council of the Judiciary.
- 2.^o Taking part in legislative or local elections with the exception of casting a personal vote. Notwithstanding they shall perform their duties and functions inherent in their office.

Article 396.

Judges may not disclose any facts or news in respect of physical or legal persons which they have discovered in the course of their duties.

Article 397.

Competence for authorisation, recognition or refusal of compatibilities, pursuant to the terms of this chapter corresponds to the General Council of the Judiciary following a report from the Presidency of the respective Court.

CHAPTER III
JUDICIAL IMMUNITY

Article 398.

1. Judges on active service may only be arrested on order of the competent judge or in the case of flagrante delicto. In the latter case the requisite measures shall be taken and the apprehended Judge shall be immediately placed at the disposal of the closest Investigating Judge.

2. The President of the Court to which the Judge is assigned shall be informed by the most rapid means possible of any such arrest. The appropriate Judicial Authority shall take the necessary measures to address the substitution of the arrested party.

Article 399.

1. The civil and military authorities shall refrain from calling on Judges and from summoning them to appear before them.

When a civil or military authority requires data or statements which may be facilitated by a Judge, and which do not refer their post or function they shall be requested in writing or they shall be received in the official office of that Judge with prior notification.

2. When the assistance or cooperation concerns the jurisdictional post or duty it shall be provided without delay unless the act to be executed is not legally permitted, or if the Judge or the Court's own authority is not jeopardised. The petitioning authority shall be notified with reasoned grounds justifying the refusal.

Article 400.

When the statement of a Judge or Senior judge is required in a criminal investigation and it is legally possible to provide this, the Judge in question shall be required to comply. If the judicial authority requiring the statement is of a lower category, the declaration shall be made at the Judge's office with prior notification of the date and time.

CHAPTER IV
PROFESSIONAL ASSOCIATION OF JUDGES

Article 401.

In accordance with the terms of Article 127 of the Constitution the right to the free professional association of judges in the Judicial Service shall be exercised in accordance with the following regulations:

- 1.^a Associations of judges shall have legal personality and full capacity to fulfil their purpose.
- 2.^a They may have as lawful purpose the defence of the professional interests of their members in all aspects and shall carry out activities designed to serve Justice in general. They shall be prohibited from carrying out political activities or creating links with political parties or unions.
- 3.^a Associations of judges shall extend their scope nationally without prejudice to the existence of sections, the scope of which coincides with that of a High Court of Justice.
- 4.^a Judges may freely join or decide not to be associated with professional associations.
- 5.^a Only judges on active service may join such associations. No judge may belong to more than one professional association.
- 6.^a Professional associations of judges who are members of the Judicial Service shall be validly incorporated from the moment they are recorded in the register kept to this effect by the General Council of the Judiciary. Registration shall be carried out at the request of any

association promoters who shall accompany their application with the text of the articles and statutes and a list of members.

Registration may only be denied in the event that the association or its articles and statutes do not conform to legal requirements.

7.^a The articles and statutes shall mention the following as a minimum:

- a) Name of the association.
- b) Specific purposes.
- c) Organisation and representation of the association. Its internal structure and operation shall be democratic.
- d) System of affiliation.
- e) Financial means and subscriptions.
- f) Election procedure for appointments to the governing body of the association.

8.^a Suspension or dissolution of professional associations shall be subject to the regime established for the general right to association.

9.^a In addition, the rules regulating the general right to association shall be applicable.

CHAPTER V

FINANCIAL INDEPENDENCE

Article 402.

1. The State ensures the financial independence of Judges through remuneration commensurate with the gravity of jurisdictional duties.

2. It also ensures a Social Security system which protects Judges and their families during active service and retirement.

Article 403.

1. The remuneration system for Judges is guided by the principles of objectivity, fairness, transparency and stability, taking into account in setting the amount the commitment to jurisdictional duties, rank and seniority of service. The responsibility inherent in the post and the job shall also be remunerated.

2. In any case, the remuneration of Judges shall contain as a general rule, a fixed component and another variable component for objectives which specifically value their individual performance.

3. Fixed remuneration which is broken down into basic and complementary amounts shall remunerate the rank and seniority in the judicial service of each of its members, in addition to the objective characteristics of the posts occupied.

Basic remuneration consists of the salary and seniority. Complementary remuneration includes an assignment complement and a specific complement.

4. Variable remuneration for objectives shall be linked to individual performance accredited by individual Judges in the performance of their jurisdictional and professional duties.

5. In addition, Judges shall receive special payments for extra duty services, extraordinary services undertaken without being relieved of their duties and substitutions.

6. Pursuant to previous sections, remuneration for members of the judicial service shall be defined in a Law.

Article 404.

Together with the other items corresponding to Judges' salaries, the General State Budgets shall contain an annual consignment for magistrates, other payments for judicial personnel according to the precepts of this law and other requirements of the Administration of Justice.

Article 404 bis.

Pursuant to the principle of jurisdictional supremacy contained in Article 123 of the Constitution and in accordance with the nature of the judiciary working according to the present Law, remuneration of the Senior Judges of the Supreme Court shall be established for an amount similar to that of incumbents of other senior Constitutional bodies, according to the nature of their duties.

TITLE III

Judges' liabilities

CHAPTER I

CRIMINAL LIABILITY

Article 405.

Judges shall be held criminally liable for offences or crimes committed in the performance of their duties, pursuant to the terms of this Law.

Article 406.

Cases of criminal liability against Judges may be lodged by order of the competent Court or through a complaint filed by the Public Prosecution Service, or by the injured or offended party or by means of class action.

Article 407.

When the Supreme Court, due to hearing lawsuits or actions or through any other means is apprised of any action by Judges carried out during the performance of their duties which may be qualified as an offence or crime, this shall be communicated following a hearing of the Public Prosecutor and the competent Court for initiating proceedings. If appropriate, the High Courts of Justice shall operate in a similar manner.

Article 408.

When other judicial authorities are made aware through their activities of the possible perpetration of a crime or offence on the part of a Judge in the course of his/her duty they shall inform the competent Judge or Court, following hearing of the Public Prosecutor, submitting the background information required.

Article 409.

When the General Council of the Judiciary, the Government or any other State body or authority or Autonomous Community considers that a Judge in the performance of his/her duties has committed an act which may constitute a crime or offence, it shall inform the Public Prosecutor's Office to ascertain whether the criminal action should proceed, without prejudice to the terms of Article 406.

Article 410.

In the event that any of the parties in a process or any person having interest therein, were to lodge a complaint against a Judge who should rule in that process prior to the admission of this complaint, the competent body for hearing the case shall compile background to the case as deemed appropriate in order to determine the competence and criminal relevance of the actions or the authenticity of the accusation.

CHAPTER II

CIVIL LIABILITY

Article 411.

Judges shall respond through civil means for damages caused when, in the performance of their duties they commit unlawful conduct or negligence.

Article 412.

Civil liability may be required at the instance of the injured party or their assignees in the corresponding trial.

Article 413.

1. The claim of civil liability shall not be lodged until the ruling finalises proceedings in which said damages occurred, and only those who have made the appropriate claim during those proceedings may do so.
2. Under no circumstances shall the ruling in a civil liability case alter the final judgment issued in the proceedings.

CHAPTER III

DISCIPLINARY LIABILITY

Article 414.

Judges shall be subject to disciplinary liability in the cases and with the guarantees established in this Law.

Article 415.

1. Disciplinary liability shall only be required by the competent Authority by means of the procedure established in this chapter.
2. Initiation of criminal proceedings shall not constitute an obstacle to opening a disciplinary case for the same actions. However, a ruling shall not be issued in this case until the final judgment or order for dismissal has been handed down in the criminal proceedings.

In any case, the statement of proven facts contained in the judgement finalising the criminal proceedings shall be linked to the decision issued in the disciplinary case, without prejudice to the different legal qualification attributed to either legal channel.

3. Criminal and disciplinary sanctions may only be applied to the same acts when the legal grounds and legally-protected right on which the punishment is based are not identical.

Article 416.

1. Offences committed by Judges in the performance of their duties may be extremely serious, serious or minor.

2. Extremely serious offences shall be brought to justice within a period of two years; serious offences, within one year; minor offences within the term stipulated in the Criminal Code for prescription of offences.

The term for action shall commence from the date in which the offence was committed. However, in the case indicated in Article 417.5, the term shall be initiated from the moment the judgment declaring the Judge's civil liability becomes final.

3. The prescriptive term shall be interrupted from the date of notification of the decision to initiate disciplinary proceedings or, if appropriate, informative enquiries relating to the conduct investigated by the Judge.

The prescriptive limit shall recommence if the enquiries or the proceedings are stopped for a period of six months due to reasons which are not attributable to the Judge subject to the disciplinary procedure.

Article 417.

The following are deemed to be extremely serious offences:

1. Conscious failure to comply with the duty of loyalty to the Constitution as established in Article 5.1 of this Law, when this is evident in a final judgment.

2. Political parties' or unions' membership or carrying out work or holding office in their service.

3. Reiterated provocation of serious conflicts with the authorities within the area defining the Judge's duties, on grounds other than the performance of his/her jurisdictional duties.

4. The interference, through orders or pressure of any other type, in another Judge's exercise of their jurisdictional powers.

5. Actions or omissions which have given rise in a final judgment to a statement of civil liability contracted in the performance of their duties due to unlawful conduct or serious negligence pursuant to Article 411 of this Law.

6. The performance of any of the activities incompatible with the post of Judge, established in Article 389 of this Law, except those which constitute a serious offence in accordance with the terms of Article 418.14 of this same Law.

7. Instigating own appointment for Courts and Tribunals when the appointee is in one of the situations of incompatibility or prohibition established in Articles 391 to 393 of this Law, or to maintain the performance of duties in the post in those bodies without informing the General Council of the Judiciary of the circumstances required to proceed to compulsory transfer stipulated in Article 394.

8. The failure to observe the need for abstention while knowingly aware that one of the legally established grounds for abstention is present.

9. Disregard or unjustified and reiterated delay in initiating, processing or ruling in procedures and cases or in the performance of any judicial duties.

10. Abandonment of service or unjustified and continued absence for a period of seven calendar days or more, from the court or judicial body to which the Judge is assigned.

11. Failure to state the truth in applications for leave, authorisations, declarations of compatibility, expenses and financial assistance.

12. Disclosure by the Judge of facts or data made known in the course of his/her duties, when this would damage any proceedings or any person.

13. Abuse of the post of Judge to obtain favourable and unjustified treatment from authorities, civil servants or Professionals.

14. Inexcusable ignorance in fulfilling their judicial duties.

15. A total and manifest lack of grounds for judicial decisions requiring these, provided that the defect has been noted in the final judgment. If the judgment delivered without grounds cannot be appealed, a requirement for proceeding shall be the complaint lodged by whoever was part of the procedure.

16. Perpetration of a serious offence when a Judge who has been previously sanctioned for another two serious offences, which have become final, without the corresponding orders having been cancelled or the cancellation being appropriate, pursuant to the terms of Article 427 of this Law.

Article 418.

The following are deemed to be serious offences:

1. A lack of respect for senior members of the hierarchy in their presence, in writing addressed to said senior members or in an announcement.
2. Enquiring, by means of any type of recommendation into the performance of the jurisdictional activity of another Judge.
3. Addressing congratulations or censure to official powers, authorities, or public servants or corporations for their actions mentioning their rank as Judge or making use of this rank.
4. Correcting the application or interpretation of the legal system made by less senior members of the jurisdictional order, except when exercising jurisdiction.
5. Excess or abuse of authority, serious lack of consideration for citizens, institutions, Clerks of the Court, forensic physicians or any other personnel in the service of the Administration of Justice, members of the Public Prosecution service, Lawyers and *Procuradores*, Social Workers and members of the Police in the service of the Court.
6. The use in judicial decisions of unnecessary or inappropriate or extravagant or manifestly offensive or disrespectful expressions from the point of view of legal reasoning. In this case, the General Council of the Judiciary shall only proceed in the light of attestation submitted or communication from the High Court in respect of which the judgment was issued, and which is hearing the appeal.
7. Failure to require disciplinary liability from the Clerks of the Court and subordinate ancillary staff when they become aware or should be aware of serious non compliance of said personnel in the performance of their duties
8. Disclosure by the judge and outside the established sources of judicial information facts or data discovered or learnt in the performance of their duties or when this does not constitute an extremely serious offence pursuant to section 12 of Article 417 of this Law.
9. Abandonment of service or unjustified and continued absence for more than three calendar days, and less than seven from the Court to which the Judge is assigned.
10. Unjustified and reiterated non-compliance of the schedule for public hearing and unjustified failure to attend procedural acts in previously announced public hearings, when this does not constitute an extremely serious offence.
11. Unjustified delay in initiating or committing proceedings or cases to be heard by the Judge in the performance of his/her duties when this does not constitute an extremely serious offence.
12. Reiterated non compliance or disregard for requirements which, in the exercise of their legitimate competence, are imposed by the General Council of the Judiciary, the President of the Supreme Court, of the National Court and the High Courts of Justice or Governing Chambers, or the obstruction of the inspection duties of these bodies.
13. Failure to comply with the requirement to compile a list and review of cases pending in the event of the case established in Article 317 section 3 of this Law.
14. Any activity of those deemed to be compatible as referred to in Article 389.5.º of this Law, without obtaining the pertinent authorisation, when required, or having obtained it by omitting the truth in the alleged proposals.
15. Unjustified abstention when declared by the Governing Chamber in conformance with the terms of Article 221.3 of this Law.
16. Adopting decisions in clear abuse of procedures, generating fictitious increments in work volume in respect of the calculation systems set by the General Council of the Judiciary.

17. Obstructing inspection work.

18. The perpetration of a minor fault or offence having been previously sanctioned in a final decision for two other minor faults when these have not been cancelled, or started proceedings to cancellation of the corresponding annotations, pursuant to the terms of Article 427.

Article 419.

The following are deemed to be minor faults or offences:

1. Lack of respect for senior ranks when such circumstances do not constitute a serious offence.
2. Disregard or lack of consideration for officials of equal or lower rank in the hierarchy, citizens, members of the Public Prosecution service, Forensic Physicians, Lawyers and *Procuradores*, Social Workers, Clerks of the Court or any other personnel working in the service of the Court Office, or for members of the Police in the service of the Court.
3. Unjustified or non-motivated non-compliance with the legally established terms for delivering judgements in any category of case heard by the Judge.
4. Unjustified and continued absence of more than one calendar day and less than four days from the Court to which the Judge is assigned.
5. Disregard for the requirements which, in the exercise of their legitimate competence are imposed by the General Council of the Judiciary, the President of the Supreme Court, of the National Court and the High Courts of Justice or Governing Chambers.

Article 420.

1. Sanctions which may be imposed on Judges for offences committed in the performance of their duties are as follows:

- a) Warning.
- b) Fine of up to 6,000 euros.
- c) Compulsory transfer to a Court or Tribunal separated by at least one hundred kilometres from that to which the Judge had been assigned.
- d) Suspension of up to three years.
- e) Dismissal.

The judge sanctioned with compulsory transfer shall be unable to compete in examinations for a term of one to three years. The duration of the prohibition on competing shall necessarily be determined by the decision finalising the procedure.

2. Minor offences may only be sanctioned with a warning or a fine of up to fifty thousand pesetas or with both; serious offences with a fine of fifty one thousand up to five hundred thousand pesetas, and extremely serious offences shall be sanctioned with suspension, compulsory transfer or dismissal.

3. Sanctions imposed for extremely serious offences shall be prescribed within two years; those for serious offences within a year; and minor offences within the term established in the Criminal Code for prescription of offences. Said terms of prescription shall be computed from the date following the day the decision of the sanctioning body becomes final.

Article 421.

1. The following shall be authorised to impose sanctions:

- a) For warnings, the President of the Supreme Court, the National Court and the High Courts of Justice and the Judges attached thereto.
- b) For sanction by fine or warning and fine corresponding to minor offences, the Governing Chambers of the Supreme Court, the National Court and the High Courts of Justice with respect to Judges dependent on each of these.

c) For sanctions corresponding to serious offences, the Disciplinary Committee of the General Council of the Judiciary.

d) For very serious offences, the Plenary Session of the General Council of the Judiciary at the request of the Disciplinary Committee.

2. Nevertheless, the bodies referred to in the above rules may impose sanctions of less gravity than those ordinarily attributed if, on examining a case which is initially attributed to their competence, it is found that the facts merit a less strict disciplinary effect.

3. In imposing sanctions, the authority or competent bodies should observe the due adequacy or proportionality between the seriousness of the infringing action and the sanction applied.

Article 422.

1. Warning sanctions shall be imposed with the only procedure being that of a hearing with the interested party following provision of summary information.

The sanctioned party may opt to lodge an administrative appeal against the decision issued on this class of action prior to appealing through contentious-administrative channels, and the complainant, if appropriate, may lodge an appeal through contentious-administrative channels, in accordance with the legitimating rules established in the law regulating the jurisdiction in question.

2. The remaining sanctions shall be imposed by means of the procedure established in the following articles.

3. The sanctions referred to in Article 421.1, d) of the present Law shall be imposed by the Plenary Session of the General Council of the Judiciary on the proposal of the Disciplinary Committee and following a hearing with the Judge against whom the case is lodged, who may allege and present the documentation he/she deems pertinent within a term of no less than ten days and no more than fifteen, if the proposal is separate from that formulated by the investigating judge.

Article 423.

1. The disciplinary procedure shall be officially carried out in all its aspects and shall be initiated with the approval of the corresponding Governing Chamber or President or, if appropriate, the Disciplinary Committee or the Plenary Session of the General Council of the Judiciary, either on their own initiative or as the result of an order or reasoned petition from another body or complaint. The Public Prosecutor may also initiate the case.

2. Any complaint regarding the functioning of the Administration of Justice in general and the actions of Judges in practice shall be subject, within a term of one month, to a report by the Head of the Inspection Service of the General Council of the Judiciary in which it may be proposed to dismiss the case, open an informative investigation or directly instigate a disciplinary case.

3. The complainant shall be informed of the reasoned decision issued by the Governing Chamber of the Disciplinary Committee on initiation of the case who shall not be able to lodge an appeal through administrative channels, without prejudice to their legitimisation as interested party through jurisdictional channels.

If disciplinary proceedings are commenced the complainant shall be notified of the decisions issued and may formulate allegations, however, it will not be possible to lodge an administrative appeal, without prejudice to the interested party being legitimised to act through jurisdictional channels.

4. In the decision to initiate proceedings, an investigating judge of at least the same category as the accused party shall be appointed. A secretary shall be appointed on the proposal of the delegated investigator.

Article 424.

1. The Disciplinary Committee of the General Council of the Judiciary, on its own initiative, having heard the delegated examining judge or on his/her proposal, following an interview with the Judge who is the object of the case, and the Public Prosecutor, within a standard period of no more than five days, may order as a cautionary measure the provisional suspension of the accused party for a maximum period of six months when there are rational indications of perpetration of an extremely serious offence.
2. The interested party may lodge an administrative appeal against the aforementioned resolution before the Plenary Session of the General Council of the Judiciary in the terms established in Articles 142 and 143 of the present Law.

Article 425.

1. The delegated examining judge may hear as much evidence and take any action required to determine and verify the facts and the liabilities subject to sanction, with the intervention of the Public Prosecutor and the interested party, who may use the services of a lawyer from the start of the case.

2. In view of the evidence heard and action taken, the delegated examiner shall formulate, if appropriate, a list of charges explaining the facts attributed and expressing if appropriate, the presumed offence and the applicable sanctions.

The interested party shall be informed of the list of charges so that within a term of eight days he/she may respond and propose any evidence deemed appropriate which shall be qualified or not as pertinent by the delegated examining judge.

3. Having replied to the charges or the requisite term having elapsed without reply, and having heard, if appropriate, the evidence submitted by the interested party, the delegated instructor following a hearing with the Public Prosecutor shall formulate a proposal for resolving the issue in which the facts will be accurately established and shall make a legal assessment thereof and indicate the sanction deemed appropriate to the case.

The interested party shall be notified of said decision proposal in order to make any allegations deemed appropriate within a term of eight days.

4. Having completed the aforementioned procedure, or the term for doing so having elapsed, the case shall be submitted to the authority issuing initiation of the proceedings for the appropriate decision. When the authority in question considers that a more serious sanction should be applied than those within his/her competence, he/she shall submit the procedure with his proposal to the authority deemed competent.

5. The competent authorities may return the case to the delegated examining judge to include other facts in the charge list, to complete the enquiries or to submit the interested party to a decision proposal which includes a more serious legal qualification.

6. The sanction procedure shall not exceed six months. When for exceptional reasons the case is prolonged further, the delegated examining judge shall submit information every ten days to the authorities who had ordered the enquiry on the state of the proceedings and the circumstances which are hindering its conclusion.

7. The decision ending the disciplinary procedure shall be justified and shall not consider any actions or facts other than those which motivated the decision, without prejudice to its different legal assessment provided that it is not of a more serious nature.

8. The interested party and the Public Prosecutor shall be informed of the decision issued and who, if the decision proceeds from the Governing Chamber or the Disciplinary Committee, may lodge an administrative appeal without prejudice to other possible appeals legally viable through jurisdictional channels. In addition, the complainant, should there be one, shall be informed and may only appeal through contentious-administrative channels. The associations of Judges may also be entitled to lodge a contentious-administrative appeal on behalf of their members, provided that they attest to their express authorisation to do so.

9. The sanction decision shall be enforceable when the administrative channels have been exhausted, despite the fact that a contentious-administrative appeal may have been lodged, unless the Court orders its suspension.

Article 425 bis

1. The regulations on abstention and objection established in Articles 28 and 29 of the Law governing the legal system of Public Authorities and the Civil Service and the common administrative procedure shall be applicable to the delegated examining judge and the secretary of the disciplinary proceedings.
2. The right to object may be exercised from the moment the interested party is formally informed of the identity of the delegated examining judge and the secretary.
3. Abstention and objection shall be raised before the body making the appointment which, having heard the delegated examining judge and the secretary, shall be resolved within a term of three days.
4. No appeal shall be possible against decisions adopted in respect of abstention and objection, without prejudice to the fact that the interested party may allege the objection in the corresponding appeal brief lodged against the final decision in the disciplinary procedure.

Article 426

1. Disciplinary sanctions shall be noted in the personal file of the interested party expressing the facts of the accusation.
2. The Authority imposing the sanction shall ensure that the foregoing procedure is implemented.

Article 427.

1. The order of a warning sanction may be cancelled after six months of the sanction decision being made final, if during this time no other disciplinary procedure resulting in sanction has arisen in respect of the sanctioned party
2. The order of any other sanctions with the exception of dismissal may be cancelled at the request of the interested party, and following hearing of the Public Prosecutor, when at least one, two or four years have elapsed since the sanction decision was made final, depending on whether the offence was minor, serious or extremely serious and that during this time the sanctioned party has not been subject to any further disciplinary procedure resulting in imposition of a sanction.
3. Cancellation will abolish the foregoing for all purposes and effects.

TITLE IV**Judges appointed on a temporary basis****Article 428.**

1. Vacancies for the post of Judge may be filled on a temporary basis when the competition does not fill the requisite posts, and until they may be covered through ordinary procedures.
2. Public competitive examinations should cover all vacancies, including those served by temporary Judges. The latter ones must be announced in the competitions for transfer at least once annually.

Article 429.

The Governing Chambers of the High Courts of Justice shall evaluate the fact of whether the vacancies in the courts may be served by substitution, extensions of jurisdiction or secondments or whether these are insufficient to ensure regular functioning. In this case, a list of courts requiring immediate temporary provision shall be submitted to the General Council of the Judiciary together with a reasoned report justifying the request.

Article 430.

The General Council shall evaluate this report and examine all the available background it deems appropriate and decide whether or not to apply the extraordinary regime for provision regulated in the terms of this Title, and shall inform the corresponding Governing Chamber of its decision.

Article 431.

1. When this provisional regime has been authorised, the Governing Chamber of the High Court of Justice shall announce a competition offering all the vacancies to be covered by this means within the Autonomous Community. Applicants need to be Law graduates and they must have applied for one, several or all the vacancies convened and fulfil the remaining requirements for entering the Judicial Service, except those deriving from retirement on grounds of age. Those who have reached the age of seventy two years shall be unable to apply or to act as a Judge in the temporary provisional system.

2. Those with the greatest number of merits according to the scale detailed below shall have preference, provided that there are no other circumstances which might affect their suitability:

a) Candidates holding a Doctorate in Law.

b) Candidates who have performed judicial duties as Clerk of the Court or as substitutes in the Public Prosecution Service with proven aptitude, or those who have exercised other legal Services.

c) Candidates who have successfully passed public examinations to undertake job postings in any other Public authority or Civil Service department in which a Law Degree is required as qualification.

d) Those attesting to university teaching in a legal discipline.

e) Candidates with the best academic record.

f) In the Autonomous Communities with their own Law, or their own Law and language, knowledge thereof shall be deemed an advantage.

The foregoing merits shall be evaluated in a way in which none alone may exceed the joint evaluation of another two.

3. The General Council of the Judiciary shall be informed of the appointments made, which shall be rendered ineffective if they are not adjusted to the law.

Article 432.

1 Judges appointed on a temporary basis shall be subject, during the time they perform said duties, to the legal statute of members of the Judicial Service and they shall be entitled to receive the remuneration regularly indicated by the Government within budgetary provisions.

2. The appointments shall be for a period of one year and may be extended for a further year in accordance with the present procedure, except for the terms of letter e) section 1 of the following article.

Article 433.

1. Those occupying judicial posts on a temporary basis shall cease:

a) On completion of the term for which they were appointed.

b) On resignation accepted by the Governing Chamber which appointed them.

c) On attaining the age of seventy two years.

d) On the decision of said Chamber when they are subject to any of the grounds for incapacity, incompatibility or prohibition established in this Law, following summary information proceedings with a hearing of the interested party and the Public Prosecutor.

e) In accordance therewith, when they are found to lack aptitude or suitability for the post or when they fail to diligently carry out the duties thereof, with the same guarantees in respect of the procedure established in the previous section.

f) When an incumbent judge is appointed to the post previously served by temporary provision.

2. The General Council of the Judiciary shall be notified of cessation of the activity, irrespective of the reason.

TITLE V

Ongoing training of judges

Article 433 bis

1. The General Council of the Judiciary shall ensure that all Judges and Senior Judges shall receive ongoing, individualised, specialised and high quality training throughout their professional service.

2. The General Council of the Judiciary shall establish a regulatory Ongoing Training Plan for the Judicial Service, which shall detail the objectives, content training priorities and long term annual programming for these activities.

3. Each member of the Judicial Service shall be provided with a Specialised Ongoing Training Plan which in an individualised manner over five year periods shall define their training objectives, ensuring full adaptation to the legal innovations having effect on their jurisdictional duties.

Compliance with the objectives of the Specialised Training Plan of each of the Judges shall be assessed by the General Council of the Judiciary in the manner established in the regulations for the purposes of professional promotion.

4. The Judiciary School shall develop programmes and provide training courses included in the Ongoing Training Plan for the Judicial Service, thus enabling training activities to be held in a decentralised manner, within the autonomous or provincial sphere, and through collaboration, if appropriate, with expert institutions and bodies in providing the training in question.

5. The Ongoing Training Plan for the Judicial Service shall include training of judges and Senior Judges in the principle of gender equality and the gender perspective.

The Judiciary School shall provide annual courses on the jurisdictional protection of equality between men and women and gender violence.

TITLE VI

Centre for Legal Studies in the Administration of Justice

Article 434.

1. The Centre for Legal Studies of the Administration of Justice is a body of Public Law with its own legal personality dependent on the Ministry of Justice.

2. It shall act in collaboration with the Ministry of Justice in the recruitment, initial and ongoing training of members of the Public Prosecution Service, the Secretariat and other personnel in the service of the Administration of Justice.

The Centre for Legal Studies shall annually provide training courses on the principle of equality between men and women and their application, with a transversal nature, to members of the Public Prosecutor's Office, the Division of Clerks of the Court, and other personnel in the

service of the Administration of Justice, as well as the detection and treatment of gender violence situations.

3. Regulations shall be established for the organisation of the Centre and the designation of management personnel. In addition, permanent relations between the Centre and competent bodies of the Autonomous Communities shall also be established.

VOLUME V

CLERKS OF THE COURT AND THE COURT OFFICE.

TITLE I

System of organisation and operation of the administration in the service of judges and the courts.

CHAPTER I

THE COURT OFFICE

Article 435.

1. The Court Office is the organisation instrumental in supporting and assisting jurisdictional activity of Courts and Tribunals.
2. The basic structure of the Court Office, which shall be homogenous throughout national territory as a result of the unique character of the Judiciary it serves, shall be based on the principles of hierarchy, division of functions and coordination.
3. The Court Office shall function on the basis of criteria of agility, efficacy, efficiency, rationalisation of work, responsibility for management, coordination and cooperation between Administrations, so that citizens may obtain a quality service commensurate with the principles contained in the Charter of Rights of citizens before Justice.
4. Posts in the Court Office may only be held by personnel who are civil servants in the service of the Administration of Justice, and shall be organised according to the terms of the Lists of Appointments.

Article 436.

1. A basic organisational element of the structure of the Court Office shall be the Unit, which includes appointments therein, linked functionally on the basis of their tasks.
2. Two types of unit shall be designated in respect of functions: procedural units providing direct support and procedural common services. The main activity in these units is determined by the application of procedural regulations.
3. The design of the Court Office shall be flexible, its size and organisation shall be determined by the competent Public Authority based on the activity taking place therein.
4. The Court Office shall provide support to national bodies, those of autonomous communities, provincial bodies, judicial or municipal districts extending its scope of competence to the bodies to which it provides support. It may also have regional competence.
5. The units comprising the Court Office may carry out their duties in the service of the bodies of a same jurisdiction, various jurisdictions or to specialised bodies, but under no circumstances may the scope of the court office modify the number and composition of judicial bodies which make up the judicial staff or the territorial boundaries of the same, as established by the law.
6. Judges and Senior Judges may in the cases attributed to them require at all times that the responsible civil servant provide as much information as they deem necessary.

Article 437.

1. For the purposes of the present Organic Law a direct procedural support unit is deemed to be a Unit of the Court Office which directly assists Judges in performing their duties, carrying out the necessary action for the precise and effective fulfilment of as many decisions as are issued.

2. There shall be as many direct support procedural units as there are Courts or, if appropriate, Chambers or sections of the Courts created and in operation, integrating their incumbents together with the respective judicial body.

3. The procedural direct support units shall have a Clerk of the Court who shall exercise authority and duties proper thereto.

For reasons of rationalisation of service, a same Clerk of the Court may act in more than one of these units.

4. In addition, each unit shall be provided with the appointments required for the body in question, in accordance with the jurisdictional system to which they belong, which shall be determined in the respective List of Appointments.

5. The Ministry of Justice, following a report of the General Council of the Judiciary and the Autonomous Communities with assumed competence, shall determine the basic staffing of these direct support procedural units which shall ensure in all cases the correct operation of the jurisdictional body.

Article 438.

1. For the purposes of the present law, procedural common service is considered to be any unit of the Court Office which, without being integrated in a specific judicial body, assumes the centralised work of management and support in activities deriving from the application of procedural laws.

2. They shall provide their support to all or any of the judicial bodies in their territorial sector irrespective of the jurisdictional order to which they belong and the extension of their jurisdiction.

3. The Ministry of justice and the Autonomous Communities in their respective territories shall be responsible for designing, creating and organising the procedural common services, with duties of registration and distribution, acts of communication, judicial assistance, enforcement of judicial decisions and voluntary jurisdiction. The Governing Chambers and the Boards of Judges may request that the Ministry and the Autonomous Communities create communal services pursuant to specific needs.

In addition, procedural common services which assume the organisation of the procedure or other functions differing from those listed in this section may be created, in which case a favourable report from the General Council of the Judiciary shall be required.

4. According to the specific activity carried out, the Procedural Common Services shall be structured in sections to which the corresponding appointments shall be allocated, and these in turn according to service requirements, into Teams.

5. At the head of each procedural common service constituted in the Court Office there shall be a Clerk of the Court, on which all the other Clerks and personnel working in the service in question shall depend, and who, in any case shall be sufficient and adequate for the functions assigned thereto.

6. The Clerk of the Court managing the procedural common service shall ensure, in the organisational and functional area for which he/she is responsible, compliance with the orders and circulars received from his/her superiors. In the jurisdictional field they shall respond with strict compliance of as many actions or decisions adopted by judges or courts in the performance of their duties and authority.

7. The General Council of the Judiciary may establish general criteria which will permit homogeneous action in same type procedural common services throughout national territory, and which, under no circumstances may influence the exercise of jurisdictional duties within the competence of the Public Authorities or Civil Service in the field of the Administration of Justice.

CHAPTER II

ADMINISTRATIVE UNITS

Article 439.

1. For the purposes of the present Law, administrative unit is deemed to be that which, without being integrated in the Court Office, is constituted in the area of organisation of the Administration of Justice for the direction, organisation and management of human resources of the Court Office over which it has authority, as well as computer resources, new technologies and other material means.

In addition, within those units, the Ministry of Justice and the Autonomous Communities in their respective fields, may establish communal support offices for one or various Court Offices, for the provision of services, the nature of which do not require the performance of duties accorded as proper by this Organic Law to the civil servants in the Service of the Administration of Justice, and considered necessary or appropriate for the correct functioning thereof.

2. It corresponds to each Authority in its own territorial area to design, create and organise the administrative units required and the communal support offices, the determination of its form of integration in the Public Authority in question, its scope of activity, hierarchical dependence, establishment of jobs and provision of credit required to start up and operate the units.

3. The appointments in these Administrative units, which shall be determined by the Ministry of Justice and the Autonomous Communities with assumed authority in their respective fields, may be covered by personnel from the civil service in the service of the Administration of Justice, the State Authority and the Autonomous Communities who fulfil the requirements and conditions established in the respective list of Jobs.

4. Civil servants providing services in Court Offices, with the exception of the Clerks of the Court, without prejudice to their functional dependency, depend organically on the Ministry of Justice or the Autonomous Communities, with competence assumed in their respective fields.

TITLE II

Division of Clerks of the Court.

CHAPTER I

EMPLOYMENT STATUS

Article 440.

Clerks of the Court are public servants constituting a Senior Legal Division, which is unique and national in nature, serving the Administration of Justice, and who perform their duties with the requisite authority.

Article 441.

1. There are three categories of Clerk of the Court, entering the service with the third category.
2. All Clerks of the Court shall have a personal category. Under no circumstances shall a third category Clerk of the Court opt for a post of first category.
3. Establishment of a personal category requires work experience in that category for at least five continuous years or seven with interruption.
4. It shall not be possible to consolidate a senior category without previously becoming established in the lower category.
5. The established category determines the corresponding salary, irrespective of the job carried out.

6. To this effect, the Ministry of Justice shall establish three groups in which it shall classify job posts to be carried out by the Clerks of the Court.

Article 442.

1. Public servants serving as Clerk of the Court shall be elected by announcement of the Ministry of Justice, through a system of public examinations, which shall be the ordinary system of entry, or free internal competition, which shall be held exceptionally and in which the test of knowledge shall be analogous in content to those of free internal competition. Both procedures should ensure in any case the principles of equality, merit, capacity and also publicity in the form described in this Organic Law and the regulatory provisions governing them.

2. Fifty percent of the vacancies for Clerk of the Court shall be reserved for internal promotion by means of a competitive examination for public servants in the service of the administrative and procedural service in which they work, who have at least two years effective service. To this effect the services provided in the Service of Officers in the Administration of Justice shall be computed as appropriate.

The remaining vacancies, to which the vacancies not covered by internal promotion shall be added, should they exist, shall be covered by free rota through public examination or, if appropriate, internal competition.

3. In order to enter the Service of Clerks of the Court, irrespective of the means of access, it is necessary to be Spanish, to have obtained a Law Degree, and to be free from any incapacity or incompatibility, as well as successfully completing the selective test established and the corresponding theoretical and practical course, which may be selective in nature.

Article 443.

1. The post of Clerk of the Court is acquired through successive compliance with the following requirements:

- a) Fulfilling the requirements and meeting the conditions established in the announcement.
- b) Successful completion of the selective procedures.
- c) Appointment issued by the Ministry of Justice and published in the Official State Gazette (*Boletín Oficial del Estado*).
- d) Swearing oath or promising to faithfully comply with the duties of the post and to maintain the Constitution as a fundamental rule.
- e) Taking possession within the established term.

2. The office of Clerk of the Court shall be cancelled in the following cases:

- a) Voluntary resignation submitted in writing and expressly accepted by the Ministry of Justice.
- b) Loss of Spanish nationality.
- c) Disciplinary sanction of dismissal from service.
- d) Total or special disqualification imposed by the Courts as main or accessory penalty when it becomes final.
- e) On retirement, either voluntary of compulsory, or due to permanent incapacity for service.
- f) Due to sentencing of prison custody for more than three years, as a result of wilful misconduct.

Article 444.

1. Civil servants serving as Clerks of the Court shall have the same individual, collective rights and duties as those established in VOLUME VI of this Organic Law.

2. The system established in the previous section shall be applicable to substitute Clerks of the Court insofar as the nature of law permits, remaining, to the effects of Social Security, within the General System of Social Security.

Article 445.

1. Administrative status which may apply to Clerks of the Court, such as retirement, shall be the same and shall be declared in the cases and with the effects established in the present Organic Law as those for Judges and Senior Judges.

2. They shall be subject to the same incapacities, incompatibilities and prohibitions with the exception of those indicated in Article 395.

Article 446.

1. Clerks of the Court shall be required to abstain from cases established for Judges and Senior Judges, and should they fail to do so objections may be lodged against them.

2. Abstention shall be formulated in a brief containing appropriate grounds and addressed to the Judge in the case of a Court, the President in the event of a Chamber of Section or the Chief Administrative Judge in the event that they perform their duties in a communal service, who shall respectively rule on the question.

In the event that the abstention is confirmed, the Clerk of the Court who has abstained should be replaced by his/her legal substitute; if this is refused, the Clerk shall be required to continue in the case.

3. The objection to Clerks of the Court shall be subject to the same prescriptions established in the Law for Judges, with the following exceptions:

a) Clerks of the Court shall not be objected to when they are carrying out any enquiry or action for which they have been commissioned.

b) The objection shall be investigated and resolved by the same Judges or Senior Judges authorised to hear the abstention.

c) When submitting the brief of presentation, the Court Secretary shall provide details of whether or not it recognises as true and legitimate the alleged objection.

d) When the objected party acknowledges the grounds for the objection as true, the court shall issue an order without any further procedure or appeal deeming it to be objected, of it considers that the cases is legal. If it considers that the motives are not contained within the provisions of the law it shall declare that there are no grounds for objection. There is no possibility of appeal against this order.

When the objected party rejects the truth of the grounds alleged as a basis for the objection, the procedure shall be that established in Article 225 section 3 of this Law.

e) The Clerk of the Court subject of objection shall be replaced by a legal substitute from the very moment the brief of objection is lodged.

Article 447.

1. Remuneration shall consist of basic and complementary payments.

2. Basic payments shall be those established by Law for the Judicial Service.

3. Complementary payments shall be as follows:

a) The general complement for the post, which remunerates the general characteristics thereof;

b) The specific complement specific to the post and destined to remunerate the specific conditions thereof;

c) The productivity complement for special performance, extraordinary activity and interest or initiative with which the public servant carries out his/her work, as well as participation in specific programmes of activity and achieving the goals determined by the Ministry of Justice, heard by

the General Council of the Judiciary and negotiated with the most prominent union organisations.

This complement is also designed to remunerate Clerks of the Court in programmes for obtaining objectives determined by the competent bodies of the Autonomous Communities with assumed competence for their territory's court offices, prior authorisation by the Ministry of Justice.

To this effect, mechanisms for coordination between the competent Authorities shall be established.

d) Bonuses, for services of an extraordinary nature provided outside normal working hours.

4. In addition to the payments mentioned above, Clerks of the Court may also receive the following special payments:

a) Those corresponding to duty rota services.

b) Those corresponding to substitutions which imply carrying out other duties alongside their normal workload.

These payments shall be compatible with all the remunerations listed above.

5. Non-professional substitute Clerks shall receive the remuneration corresponding to the appointment, except for the complement for seniority.

Article 448.

1. The amount of salary shall be established for each of the categories within the Clerk of the Court Service structure, and seniority shall be paid by means of successive increments of five percent of the initial salary corresponding to the category of entry for three years of service. In any case, the amount of the three year bonuses paid to Clerks of the Court who were members of the abolished Service of Clerks to the Employment Tribunal shall be honoured. Clerks of the Court shall be entitled to receive two extraordinary payments per year, each consisting of a month's salary and seniority and, if appropriate, a proportional amount of the general complement for the post, in the terms established by the law on the Administration of Justice, which shall be made effective in the months of June and December, provided that the recipients were on active service or with the right to accrued income on the first day of the months indicated.

2. The amount of basic remuneration and the general complements paid for the post shall be determined by the Law on General State Budgets every year.

3. The Government, through Royal Decree, at the joint proposal of the Ministers of Justice and the Treasury, shall determine the different types of post attached to the Clerks of the Court for the purpose of the general complement for the post, the initial assignation of corresponding specific complements and remuneration for substitution which implies assuming other duties alongside the normal workload.

4. The specification of the individual amount paid as complement for productivity and the determination of the number of civil servants with the right to receive this amount shall be implemented in a Decision of the Ministry of Justice, following negotiations with the main union organisations.

5. The remuneration paid for duty rota service shall be determined by means of a Ministerial Order, at the joint proposal of the Ministries of Justice and the Treasury, following negotiations with union organisations.

6. The individual assignation of the amount of bonuses and the establishment of criteria for receiving them shall be determined in a Decision of the Ministry of Justice.

Article 449.

1. Civil servants undergoing a practical training period or participating in selective courses, such as those referred to in Article 485, shall be appointed civil servants on practical training and

shall receive remuneration equivalent to salary and extraordinary payments corresponding to the Service of Clerks of the Court in the third category.

2. Civil servants in practical training who have already provided paid services in the Administration of Justice shall not receive any remuneration for the original appointment during the practical period and may opt for a remuneration amounting to the same sum as that corresponding to their original job or for a salary as civil servant in practical training, in accordance with the terms of the previous section.

3. If the practical training was carried out in a work post, the amount indicated in the first section shall be increased by complementary remuneration of that post.

Article 450.

1. Jobs shall be allocated by means of competition which shall be the ordinary system of provision.

When the posts are of a management nature or entail special responsibilities they may be covered by the procedure of free appointment.

The appointment of Clerks of the Court for posts based in the territorial area of an Autonomous Community with assumed competence, which need to be covered by this procedure, shall be subject to a prior report from a competent body in that Community.

Notwithstanding, the system of provision shall be determined in the corresponding Lists of Appointments.

2. Exceptionally, and when the needs of the service require it, appointments may also be covered temporarily by means of provisional attachment or secondment.

3. The rules and requirements for provision of appointments shall be established through regulations.

In any case, in order to compete, a minimum period of two years shall have elapsed from the date in which the competition for transfers was announced and in which the civil servant obtained his/her last definitive post, from which h/she participates, or from the date in which he/she was assigned a definite destination, should the employees be new entrants. Clerks of the Court who do not have a definitive assignment and who are required to participate in competition in accordance with current regulations are excluded from this temporary limitation.

4. In those Autonomous Communities which have their own Civil Regional or Special Law, and their own official language, knowledge of these shall be valued as a particular advantage.

Article 451.

1. Substitutions for absence, illness, suspension or vacancy of Clerks of the Court shall be covered by persons appointed by their immediately superior officer in the hierarchy.

2. This appointment may only fall to another Clerk of the Court or substitute Clerk of the Court, who shall perform the duties established in this Organic Law for Clerks of the Court, even if they do not belong to the service, without professional rank and with temporary tenure, having the same rights and duties and to the same extent as the incumbent.

In this second case, the Ministry of Justice shall determine the requirements and procedure for appointment and cessation.

3. Exceptionally, when there is not a sufficient number of Clerks of the Court, in the cases of entry and registration in closed places agreed by a single judicial body of the National Court and which are required to be carried out simultaneously, the civil servants of the Division of Procedural and Administrative Management, in substitution of the Clerk of the Court, shall intervene and act in authenticating documents and writing up corresponding records.

CHAPTER II

OF THE DUTIES OF CLERKS OF THE COURT

Article 452.

1. Clerks of the Court carry out their tasks subject to the principle of legality and impartiality in any case, the principle of autonomy and independence in the exercise of authenticating court documents, as well as the principle of unity of action and hierarchical dependence in any other task entrusted to them in this Law and the respective rules of procedure, as well as their Organisational Statute. The tasks of the Clerks of the Court may not be delegated or authorised, notwithstanding the provisions contained in article 451.3.

2. In the performance of their duties, Clerks of the Court shall fulfil and shall ensure the fulfilment of all decisions passed by Judges or Courts within the scope of their competences.

3. Clerks of the Court shall cooperate with the Autonomous Communities with assumed powers for the effectiveness of the duties that they have in terms of personal and material resources, complying with the instructions that for this purpose they receive from their superiors in hierarchy. For better coordination purposes, Joint Commissions of Clerks of the Court and representatives from the Autonomous Communities with assumed powers may be set up in their respective territories.

Article 453.

1. Clerks of the Court, on an exclusive basis and with full powers, shall authenticate court documents. In the performance of this duty they shall provide authentic records of the performance of proceedings at the Court and before thereof and of the facts occurred that are relevant from a procedural point of view through the appropriate acts and proceedings.

When recording or reproduction technical devices are used, the Clerk of the Court shall guarantee the authenticity and integrity of the recording or reproduction.

2. Clerks of the Court shall issue certifications or authenticated copies of court procedures not declared to be confidential or reserved to the parties, mentioning the recipient and the purpose for which they have been requested.

3. They shall authorise and furnish documents for the granting of powers of attorney for litigation under the terms established in the procedural laws.

4. In the performance of this duty they shall not require the additional intervention of witnesses.

Article 454.

1. Clerks of the Court are responsible for the documentation task inherent to their positions as well as for the formation of cases and files, recording the orders announced by Judges and Senior Judges, or themselves whenever this is thus permitted by Law.

2. Clerks of the Court shall have powers to organise, manage, inspect and supervise the staff in technical procedural aspects, ensuring in any case the coordination with the Judiciary administrative authorities and with the Autonomous Communities with transferred competencies.

3. They shall ensure that the distribution of cases is done according to the rules approved for this purpose by the Governing Chambers of the Courts of Justice and they shall be responsible for the proper functioning of the Register where documents are received and shall issue, if appropriate, the certifications requested by the parties.

4. They shall supply the parties concerned and whoever declares and proves legitimate and direct interest, information required on the status of the court proceedings not declared to be confidential or reserved.

5. They shall promote the use of technical, audiovisual and computer documentation means available in the unit where they render their services.

Article 455.

Clerks of the Court shall be responsible for giving account under the terms established in the procedural laws.

Article 456.

1. Clerks of the Court shall drive the procedure under the terms established in the procedural laws.

2. For this purpose, they shall render the necessary orders for the conduct of the proceedings, except for those reserved to Judges or Courts under the procedural laws. These orders shall be called order, certification, notification or enforcement proceedings. Appeals may be filed against order proceedings before the Judge or the Rapporteur, in the cases and under the terms provided for in the procedural laws.

3. If it is thus contemplated under the procedural laws, Clerks of the Court shall have powers in the following matters:

a) Enforcement except for the powers assigned to Judges and Senior Judges under the procedural laws.

b) Non-litigious proceedings, whereby Clerks of the Court are in charge of their conduct and resolution, notwithstanding the appeals that may be filed.

c) Conciliations, undertaking the position of mediators required.

d) Any other expressly provided for.

4. Decrees will be the resolutions granted by Clerks of the Court in order to put an end to proceedings under their exclusive attributed competence or when it is appropriate for them to justify their decisions. Decrees shall always be supported by reasons and shall contain, in separate and numbered paragraphs, the pleas of facts and the pleas in law.

Article 457.

Clerks of the Court shall manage in the technical procedural aspect the staff that composes the Judicial Office, arranging their activity and giving the orders and instructions considered appropriate in the performance of their duties.

Article 458.

1. Clerks of the Court shall be responsible for the Judicial Management Records Office in which, pursuant to the regulations established therefore, cases and files not yet concluded shall be kept and safeguarded, except during the time that the Judge or the Rapporteur or other Senior Judges composing the Bench have them.

2. The rules that govern the arrangement and filing of cases and files not pending any kind of procedural step, as well as the deletion of court files, shall be established by Royal Decree.

3. The Ministry of Justice shall determine the Registers which need to be kept in Courts of Law and shall set forth the rules that shall govern how to keep the registers through appropriate regulations.

4. Clerks of the Court shall be responsible for keeping registers through the appropriate computer applications or, otherwise, manually, by giving the appropriate instructions to the staff under their responsibility.

Article 459.

1. Clerks of the Court shall be responsible for the deposit of goods and articles affected to the court files, as well as for the deposit of pieces of evidence in criminal cases at the premises assigned thereto.

All the above, without prejudice to the exceptions that may be established in the regulations as to the destination thereof in special circumstances.

2. Clerks of the Court shall be responsible for the due deposit at the chosen entities of sums and securities, consignments and guarantees, following the instructions given for this purpose.

Article 460.

Clerks of the Court shall cooperate with the Tax Authorities in the management of taxes entrusted thereto in the specific rules.

Article 461.

1. Clerks of the Courts shall be in charge of court statistics which shall be drafted following the criteria set forth for this purpose. The relevant Senior Court Clerks shall be in charge of the implementation thereof and shall compare the accuracy of the data.

2. Court Statistics are a basic instrument at the service of the Public Administrations and the General Council of the Spanish Judiciary for the planning, development and enforcement of public policies related to the Judiciary and, in particular, for the following purposes:

- a) The exercise of the legislative policy of the State in matters of justice.
- b) The modernisation of the judicial organisation.
- c) Planning and management of human resources and material means at the service of the Judiciary.
- d) The performance of the inspection duties of the Courts of Law.

Court Statistics shall ensure, within the framework of a Transparency Plan, the constant availability and in equal conditions by the Parliament [*Cortes Generales*], the Government, the Autonomous Communities, the General Council of the Spanish Judiciary and the State Public Prosecution of updated, accurate and duly verified data on the activity and workload of all court authorities, services and offices in Spain, as well as on the statistical characteristics of the matters submitted to their knowledge. Citizens may have full access to the court statistics.

3. The National Court Statistics Commission, composed of the Ministry of Justice, a representative from the Autonomous Communities with competences in this field, the General Council of the Spanish Judiciary and the State Public Prosecution, shall approve the statistical, general and special plans, of the Judiciary and shall establish uniform criteria that must be fulfilled by everyone on procurement, computer processing, transfer and use of statistical data of the Spanish judicial system.

The structure, composition and duties of the National Court Statistics Commission shall be established by the Government in a Royal Decree upon the prior report of the General Council of the Spanish Judiciary, of the Chief State Prosecutor, of the Data Protection Agency and the Autonomous Communities with competences in this field.

4. Nevertheless, the Public Administrations with competences in matters of Administration of Justice may use other statistical data gathered by using computer systems, whenever this is thus necessary or useful for their management.

Article 462.

Clerks of the Court shall assume all other duties that are established in the laws and regulations.

CHAPTER III

OF THE ORGANISATION OF THE CLERKS OF THE COURT CORPS

Article 463.

1. Under the Ministry of Justice the Clerks of the Court Corps is hierarchically organised in the manner determined in the Lists of Jobs. In this respect, they will carry out all analogous tasks typical of the position they hold and that are entrusted to them by their superiors.
2. The superior authorities are:
 - a) The Senior Court Clerk.
 - b) The Provincial Coordinating Clerk.
3. When at a Procedural Common Service several Clerks of the Court offered their services, the List of Jobs shall specify their superiority or inferiority in terms of hierarchy and duties.
4. As a democratic participation instrument of the Clerks of the Court Corps a Council of Registrars shall be created in the Ministry of Justice with consultative duties in the matters affecting the said Corps. Their organisation, operation and competences shall be specified in the regulations.

Article 464.

1. There will be a Senior Court Clerk at the Supreme Court, at the National Court, and at each High Court of Justice, as well as in the cities of Ceuta and Melilla, chosen from among the members who form part of the Clerks of the Court Corps who have at least attained the second category with a minimum of 10 years' seniority, who will also perform the duties of Registrar in the Governing Chamber of the relevant Court.
2. The Senior Court Clerk, as superior in rank, shall be in charge of managing the Clerks of the Court who provide services at the court offices that depend on the said Courts and in the cities of Ceuta and Melilla. For this purpose, they will perform the duties that this Organic Law recognises as being theirs, as well as those established in the regulations.
3. They will be freely appointed and removed by the Ministry of Justice.

This appointment, and also dismissal, shall occur at the proposal of the competent authority of the Autonomous Communities, should the latter have assumed competences in terms of Administration of Justice.

In any case, for their appointment the Governing Chamber of the relevant Court as well as the Council of Clerks of the Court shall issue a report.

For those of the autonomous cities of Ceuta and Melilla, the report shall be issued by the Governing Chamber of the High Court of Justice of Andalusia.

For the appointment of Senior Court Clerks of the Supreme Court and of the National Court a favourable report from their Governing Chambers shall be required.

4. In case of absence, sickness, suspension or vacancy of the Senior Court Clerk of the Supreme Court or of the National Court, as well as of those of the cities of Ceuta and Melilla, the most senior Clerk in the promotion rank will perform these duties. In these cases and in relation to the Senior Court Clerk of the High Courts of Justice the Coordinating Clerk of the province where the relevant Court is located shall perform these duties or, otherwise, the most senior Clerk in the promotion rank.
5. Senior Court Clerks who leave office shall be attached to the Court from where they are leaving until the relevant vacancy has been covered or to the authority of their rank in the city from where they come, having priority to choose for the following two years any position of their rank, whose recruitment must be done through voluntary competition.
6. The competent public administrations, in their own territories, shall provide Senior Court Clerks with the material means and human resources necessary for the performance of the duties assigned to them.

Article 465.

Senior Court Clerks shall perform the following duties:

1. Inspection of the services which Clerks of the Court in their competence are in charge of, notwithstanding that of the General Council of the Spanish Judiciary, the Governing Chambers or, if appropriate, the President of the relevant Court or Chamber.
2. The commencement of disciplinary proceedings for possible infringements that Clerks of the Court may incur in the performance of their duties, as well as giving official warning of disciplinary action.
3. Propose to the Ministry of Justice the appointment, as well as their dismissal should this apply, of Clerks of the Court that can be freely appointed in their territory, who participated in the relevant call.
4. Statistical control and follow up.
5. Management and organisation of the Clerks of the Court under their responsibility, respecting and supervising their independence in the performance of the authentication of court documents.
6. Give instructions to Clerks of the Court in their territories, at the request of the Autonomous Communities with assumed competences, when their cooperation is required to ensure the effectiveness of the duties assigned thereto in terms of personal and material resources at the service of the Judiciary.
7. Propose to the Ministry of Justice or, if appropriate, the Autonomous Community with transferred competencies the measures that, in their opinion, should be taken to improve the operation of the Judiciary in their competency, notifying the Ministry of Justice of any event that may affect the Clerks of the Court under their responsibility.
8. Issue circular letters and service instructions addressed to the Clerks of the Court in their territory, as well as to ensure the fulfilment of those issued by the Ministry of Justice, which under no circumstances may entail interference in the performance of the procedural activity of Judges or Senior Judges, or oppose the decisions taken by the Governing Chamber within its competencies.

They may not give particular instructions related to specific matters in which a Clerk of the Court takes part as Commissioner for oaths or in the performance of his powers to organise and manage the procedure.
9. Granting of any leave to the Clerks of the Court in their territory.
10. Any other that may be stipulated in the Clerks of the Court Organisational Statute.

Article 466.

1. In each Province there will be a Coordinating Clerk appointed by the Ministry of Justice by means of the free selection procedure, at the proposal of the Senior Court Clerk, in agreement with the Autonomous Communities with assumed powers from those who take part in the public examination call.

Likewise, in the Autonomous Community of the Balearic Islands there will be a Coordinating Clerk in the islands of Menorca and Ibiza, and in the Autonomous Community of the Canary Islands, another one in the islands of Lanzarote and La Palma.

In the Autonomous Communities composed of one province, the duties of the Coordinating Clerk shall be undertaken by the Senior Court Clerk, except for cases in which, owing to the service, their existence is advisable.

2. The requirements and procedure for their appointment shall be determined in the Clerks of the Court Organisational Statute, although in any case they will need a minimum of five years' seniority in the second category.

3. In cases of absence, sickness, suspension or vacancy they will be replaced by the Clerk of the Court appointed by the Senior Court Clerk, from those working in their relevant province and who meet the requirements established for their appointment.

4. Coordinating Clerks who leave office shall be assigned to the Court Office from where they are leaving until the relevant vacancy has been covered or to the authority of their rank in the

city of origin, having priority to choose for the following two years any position of their rank, whose recruitment is done through voluntary competition.

Article 467.

The Coordinating Clerk will be directly under the Senior Court Clerk and shall have the following powers:

1. Issue service instructions to Clerks of the Court in their territory for the proper operation of the services entrusted to them.
2. Control the proper implementation of circular letters and service instructions issued by the Senior Court Clerk above them.
3. To immediately inform the Senior Court Clerk of any event that may be relevant for the proper operation of the Judiciary, as well as of the needs for personal and material resources of the Court Offices located in their territory.
4. Cooperate with the Autonomous Communities with assumed powers for the effective duties held by them in terms of personal and material resources.
5. Coordinate the operation of procedural common services in their territory or, if applicable, directly undertake their management when there is a single provincial procedural common service.
6. Propose to the Ministry of Justice the secondment of Clerks of the Court Registrars which, in their territory, may be required for the appropriate operation of the court offices.
7. To sort out replacements for Clerks of the Court in their territory, taking into consideration, if appropriate, the requirements to be met by the replacement in relation to the position to be replaced.
8. Any other task established in the laws and their own Organisational Statute.

CHAPTER IV

OF DISCIPLINARY RESPONSIBILITY

Article 468.

1. Clerks of the Court are subject to disciplinary responsibility in the cases and in accordance with the principles established in Volume VI of this Organic Law, applicable to civil servants of the Corps working for the Judiciary, and they shall also be subject to penalties.

2. No penalty may be imposed for committing a serious or very serious offence, unless a disciplinary proceeding is processed for this purpose by means of the procedure established in the General Regulations on Disciplinary Systems applicable to civil servants who render their services to the Judiciary.

In order to impose penalties for minor offences previous proceeding are not mandatory, except for the hearing of the person concerned.

Apart from the perpetrators, the superiors who had knowledge of the events and consented thereto, as well as those who induce or cover up the very serious and serious offences when the said events cause serious damage to the Administration or citizens, shall be disciplinarily liable.

3. The Autonomous Communities with assumed powers may raise the disciplinary liability of Clerks of the Court assigned to judicial authorities in their territory before the authorities that are competent for the commencement and processing of disciplinary proceedings, who will give account of the adopted decisions.

4. The disciplinary proceedings established in the implementation of this Organic Law shall guarantee the Clerk of the Court for whom disciplinary proceedings were brought, apart from those acknowledged by article 35 of Law 30/1992, of 26th November, on Rules governing General Government Institutions and Common Administrative Procedure, the following rights:

- a) The right to presumption of innocence.
- b) The right to be notified of the appointment of the Examining Magistrate and Clerk of the Court, as well as to challenge them.
- c) To be notified of the charges, of the infringement that the events constitute and of the penalties that, if appropriate, may be imposed, as well as the disciplinary resolution.
- d) Right to file allegations.
- e) Right to produce evidence appropriate for the determination of the events.
- f) Right to be able to act in the proceedings assisted by a Lawyer or the union representatives that they choose.

5. When from the preliminary enquiry in disciplinary proceedings it is discovered that there is reasonable evidence that a criminal offence has been committed, the enquiry will be suspended and the State Public Prosecution will be notified thereof.

6. The commencement of a criminal procedure shall be no impediment for the commencement of a disciplinary enquiry for the same facts, but no resolution shall be given in the latter until there is a final judgment or stay of proceedings in the criminal case.

In any case, the statement of facts contained in the decision that puts an end to the criminal proceedings, shall bind the decision announced in the disciplinary proceedings, notwithstanding the different legal classification of either action.

Criminal and disciplinary penalties may be imposed on the same facts only when there is no identity of legal ground and no right recognised by law.

Article 469.

1. Disciplinary proceedings may be commenced for the civil servants of the Clerks of the Court Corps, by the Ministry of Justice, the Senior Court Clerk and the Provincial Coordinating Clerks. The handling thereof shall be carried out by the Ministry of Justice.

2. Offences are classified as very serious, serious and minor, according to the catalogue established in article 536 herein.

3. For the imposition of penalties the following shall be competent:

- a) The Senior Court Clerk and the Provincial Coordinating Clerk, for the penalty of warning of disciplinary measures.
- b) The Ministry of Justice, for the penalty of suspension, compulsory transfer and dismissal from service.

VOLUME VI

**OF THE CORPS OF CIVIL SERVANTS WHO RENDER THEIR SERVICE TO THE JUDICIARY
AND OTHER STAFF**

TITLE I

Common provisions

CHAPTER I

**OF THE STAFF IN THE CORPS OF FORENSIC DOCTORS, MEDICAL PRACTITIONERS OF
THE NATIONAL INSTITUTE FOR TOXICOLOGY AND FORENSIC SCIENCES, OF
PROCEDURAL AND ADMINISTRATIVE MANAGEMENT, OF EXPERTS OF THE NATIONAL
INSTITUTE FOR TOXICOLOGY AND FORENSIC SCIENCES, OF PROCEDURAL AND
ADMINISTRATIVE CONDUCT AND LEGAL AID, OF LABORATORY ASSISTANTS AND OF
OTHER STAFF WHO RENDER THEIR SERVICES TO THE JUDICIARY.**

Article 470.

1. The aim of this Volume is to establish the Legal Status, according to the provisions contained in article 122 of the Spanish Constitution, of the civil servants that integrate the Corps of Forensic Doctors, Medical Practitioners of the National Institute for Toxicology and Forensic Sciences, of Procedural and Administrative Management, of Experts of the National Institute for Toxicology and Forensic Sciences, of Procedural and Administrative Conduct, of Legal Aid, and of Laboratory Assistants of the National Institute for Toxicology and Forensic Sciences.

2. The said Corps of civil servants who render their services to the Judiciary shall be considered as National Corps.

Article 471.

1. Competencies in relation to all the staff rendering their services to the Judiciary as mentioned in the previous article, under the terms established in this Law, correspond to the Ministry of Justice or, if appropriate, to the Autonomous Communities with assumed powers, in all matters related to their statute and legal system, including selection, initial and continuous education, provision of posts, promotions, administrative situations, working hours, working times and disciplinary scheme.

2. Under the same terms, the Government or, if appropriate, the Autonomous Communities with competencies in the matter, shall approve the regulations which the implementation of this Volume requires.

Article 472.

1. Career civil servants of the aforesaid Corps are linked to the Judiciary by virtue of legal appointment, under a permanent statutory relationship for the performance of remunerated services.

2. For reasons of emergency or necessity, temporary civil servants may be appointed to perform the duties of the said Corps, as long as career civil servants may not perform them or while the reasons for their appointment still exist.

Article 473.

1. Civil servants from other Administrations may offer their services in the Judiciary and who, occasionally or permanently, are required to help in the performance of specific activities that are not the activities of the Corps of civil servants mentioned in this Volume and which require technical or specialised knowledge.

2. Likewise, when there are no Corps or Scales of civil servants whose members have the instrumental or technical training required for the performance of certain specific activities or for the performance of activities inherent to professions, in the areas of maintenance and preservation of buildings, equipment or installations or other analogous ones, staff working under an employment contract may provide remunerated services in the Judiciary.

Article 474.

1. Career civil servants of the Corps rendering their services to the Judiciary shall be governed by the rules contained in this Organic Law, the provisions implementing it and, for whatever does not expressly appear therein in a complementary manner, by the regulations of the State on Civil Service.

2. Temporary civil servants shall be governed by the scheme for career civil servants for whatever is appropriate to the nature of their condition and the state pensioners' scheme shall not apply to them.

3. For civil servants from other Administrations providing services in the Judiciary, who will perform specific and specialised duties, the provisions contemplated for these situations in the regulations of the Public Administration where they are based from shall apply to them.

4. Staff under an employment contract shall be governed by the laws and regulations, by the Collective Bargaining Agreement applicable thereto and by the clauses in their employment contract.

Article 475.

The Corps of civil servants mentioned in the previous article are classified as follows:

a) General Corps, when their assignment basically consists of procedural tasks, notwithstanding the performance of administrative duties linked to the former.

General Corps are:

Procedural and Administrative Management Corps. The degree required for this Corps is first-cycle degree [*Diplomado Universitario*], Technical Engineer, Architectural Technician or equivalent thereto.

Procedural and Administrative Management Corps. For this Corps a High School diploma or equivalent is required.

The Corps of Judicial Assistance. A lower secondary education diploma or equivalent shall be necessary to be part of this Corps.

b) Special Corps, when their assignments essentially entail the performance of duties for which a specific profession or degree is required.

Special Corps are:

Corps of Forensic Doctors. To have access to the Corps of Forensic Doctors a Degree in Medicine is necessary.

The Corps of Medical Practitioners of the National Institute for Toxicology and Forensic Sciences. To enter this Corps, a University Degree in Experimental and Health Sciences is necessary and shall be determined at the relevant examination call, according to the speciality through which they gain access to the Corps.

The Corps of Specialist Experts of the National Institute for Toxicology and Forensic Sciences. To gain access to this Corps, they must have successfully achieved the Senior Technician title in Vocational Training or equivalent thereof of the professional families determined in the requirements of the selection processes, according to the content of the jobs offered.

The Corps of Laboratory Assistants of the National Institute for Toxicology and Forensic Sciences. To gain access to this Corps they must have successfully achieved the Technician title in intermediate-level Vocational Training or equivalent thereof of the professional families determined in the requirements of the selection processes, according to the content of the jobs offered.

Article 476.

The Procedural and Administrative Management Corps cooperates in the higher-level procedural activity, as well as in the performance of typically procedural tasks.

In general terms and under the principle of hierarchy, and notwithstanding the specific tasks entailed in the job assigned:

- a) Arrange the handling of the proceedings, of which the Clerk of the Court shall be informed, particularly when certain aspects require interpretation of a law or procedural rules, notwithstanding notification to the full-time judge in the judicial authority whenever it is required.
- b) Perform and sign appearances made by the parties in relation to the proceedings conducted at the judicial authority in relation to which they have certification powers.
- c) To document attachments, eviction orders, and other acts when required, in the capacity and representation attributed by the laws, unless the Clerk of the Court considers that his intervention is necessary.
- d) Issue notes to join data or elements that do not constitute evidence in the proceeding thereto, in order to ensure that it is duly recorded and that it may be subsequently handled, reporting of this, for this purpose, to the superior authority, as well as draft notes, which may be reference notes, of the summary of the cases and of review of the procedure related thereto.
- e) Carry out tasks involving registry, receipt and distribution of letters and documents related to the matters being conducted at Courts of Law.
- f) Issue, upon notifying the Clerk of the Court, and at the expense of the party concerned, simple copies of letters and documents that appear in cases which have not been declared as confidential or reserved.
- g) Pursuant to that established in the Lists of Jobs, occupy the position of Heads of the Direct Assistance and Procedural Common Services Units, in which, notwithstanding the tasks assigned to the job, handling of the distribution of staff tasks will take place, being accountable for the performance thereof.
- h) Cooperate with the competent authorities in terms of administrative management, performing tasks related to staff management and material resources of the Judicial Office unit where they provide their services, provided the said tasks are expressly contemplated in the job description included in the List of Jobs.
- i) Act as Clerk of the Judicial Office of the Associations of Clerks of the Magistrates Court, of Magistrates' Courts of over seven thousand inhabitants and of Magistrates' Courts of less than seven thousand inhabitants where the work load justifies their being established there, as well as the remaining jobs of the employment centres assigned to the Corps of Procedural and Administrative Management, in accordance with what is determined in the relevant Lists of Jobs, as well as perform jobs of the administrative units, when the Lists of Jobs of the said units establish it, provided they meet the requirements of knowledge and training needed for their performance.
- j) Their possible appointment as deputy Clerks, provided they meet the requirements of degree and other requirements, and according to the procedure established in the regulations, receiving their remuneration according to the provisions contained in article 447.5 for non-professional deputy Clerks.
- k) The performance of those tasks that the laws or regulations establish and of any other tasks similar in nature to the former which, as they are inherent to the job performed, are assigned, in performance of their powers, by superiors in hierarchy, in organisation or functions.

Article 477.

In general terms, the Corps of Procedural and Administrative Handling performs activities that support the procedural management, according to the specialisation level of the job performed, under the principle of hierarchy and in accordance with that established in the Lists of Jobs.

Notwithstanding the specific tasks involved in the job, the following tasks must be performed:

- a) The general conduct of the proceedings, by using the mechanical or office tools applicable, for which they will prepare documents, certificates, proceedings, notifications, and other documents requested of them, as well as copies of documents and attachment to the files.
- b) Mail registration and classification.
- c) Build-up of cases and files under the supervision of the superior in hierarchy.
- d) The drafting of relevant warrants for the performance of required communication acts.
- e) The performance of chief positions that in the Lists of Jobs of the Judicial Office are assigned to this Corps, in the manner and under the terms established therein.
- f) The possibility to hold positions in the administrative units provided they meet the requirements and have the knowledge for the performance thereof as required in the List of Jobs.
- g) The performance of those tasks that the laws or regulations establish and of any other tasks similar in nature to the former which, as they are inherent to the job that they perform, are assigned by their superiors in terms of hierarchy, organisation or functions, in the performance of their powers.

Article 478.

The Corps of Judicial Assistance in general terms, under the principle of hierarchy and in accordance with what is established in the Lists of Jobs, will undertake the performance of the tasks involving assistance to the activity of the judicial authorities. Furthermore, and among other tasks, they will carry out the following:

- a) The performance of communication acts involving notifications, summons and subpoenas, in the manner contemplated in the procedural laws, for which purpose they will have capacity to certify and shall have the necessary credentials.
- b) As a law enforcement officer, carry out attachment executions, eviction orders and other acts whose nature requires it, in the capacity and representation attributed by the laws.
- c) Act as Court Officer in the capacity of a law enforcement officer, notwithstanding the duties that, in the enquiry of crimes and in finding and securing criminals, correspond to members of the National Security Forces.
- d) Perform filing tasks for court cases and files under the supervision of the Clerk of the Court.
- e) Ensure the courtrooms' conditions of use and their order.
- f) Verify that the technical means required for the legal proceedings are in good condition of use, requiring, if appropriate, the presence of the appropriate technical services, to allow the appropriate operation of the said devices, notifying the Clerk of the Court if any fault has been detected that could prevent proceedings from being held.
- e) The performance of chief positions that in the Lists of Jobs of the Judicial Office are assigned to this Corps, in the manner and under the terms established therein.
- f) The possibility of holding positions in the administrative units, provided they meet the requirements and have the knowledge for the performance thereof as required in the List of Jobs.
- g) The performance of those tasks that the laws or regulations establish and of any other tasks similar in nature to the former which, as inherent to the job performed, are assigned by their superiors in terms of hierarchy, organisation or functions, in the performance of their competencies.

Article 479.

1. Forensic Doctors are career civil servants that form the National Corps of Holders of Second Cycle University Degrees who render their services to the Judiciary.
2. Forensic Doctors provide expert assistance to Courts, Tribunals, the State Public Prosecution and Registry Offices, in matters within their professional field, both in forensic pathology and

forensic practices, as well as assistance or medical surveillance of the arrested, injured or ill, who are under their jurisdiction, in the cases and in the manner determined by the laws.

For this purpose, they shall issue reports and legal-medical opinions within the legal proceedings, they shall examine the injured on a regular basis and shall assess the personal injury subject to the proceedings. Likewise, they shall carry out research and provide cooperation as derived from their duties.

During any proceedings or enquiry commenced by the State Public Prosecution they shall be under the orders of Judges, Senior Judges, Public Prosecutors and persons in charge of the Registry Office, performing their tasks with full independence and under strictly scientific criteria.

3. Forensic Doctors shall be assigned to the Institute of Forensic Medicine or the National Institute for Toxicology and Forensic Sciences.

As an exception, and when the service is required, they may be assigned to courts, Departments of Public Prosecution or offices of the Registry Office.

4. There will be an Institute of Legal Medicine in the capital cities of the provinces where there is a High Court of Justice, as well as in those where there are Chambers of the High Courts of Justice with jurisdiction in one or more provinces.

Nevertheless, the Government, at the proposal of the Ministry of Justice, upon prior petition, if appropriate, of an Autonomous Community with competence in the matter, may give authorisation for this office to be located at the administrative capital city of the relevant Autonomous Community, if it differs from that of the High Court of Justice.

Likewise, the government may give authorisation for the establishment of Institutes of Legal Medicine in the remaining cities of the territory of the relevant High Court of Justice, within the field of action determined.

The general rules on organisation and operation of the Institutes of Legal Medicine shall be determined by means of Royal Decree, at the proposal of the Ministry of Justice and upon a prior report from the General Council of the Spanish Judiciary and from the Autonomous Communities that have received the means transfer for the operation of the Judiciary. Likewise, the duties of the Forensic Doctors, having the Ministry of Justice or the competent authority in the Autonomous Community power to issue the appropriate rules for implementation and application, within the scope of their competences.

Article 480.

1. The National Institute for Toxicology and Forensic Sciences is a technical authority assigned to the Ministry of Justice, whose mission is to assist the Judiciary and to help provide unity of scientific criteria and quality in analytical skills, as well as the development of forensic sciences.

The Ministry of Justice is in charge of their organisation and supervision. The office is located in Madrid and its field of action covers the whole National territory.

Its organisational structure shall be determined by means of Royal Decree.

Civil servants of the Special Corps will render their services there as mentioned in the following paragraphs of this article. Likewise, civil servants from the remaining Corps at the service of the Judiciary may render their services, as well as from other Administrations, under the conditions and meeting the requirements established in the appropriate Lists of Jobs; also, if appropriate, professionals or experts required for the performance of their duties or other staff for the performance of activities typical of professions or instrumental, hired under an employment contract.

2. Medical practitioners of the National Institute for Toxicology and Forensic Sciences are career civil servants that form a National Corps of Holders of Second Cycle University Degrees who render their services to the Judiciary.

According to the technical and scientific activity of the Institute, within the aforesaid Corps, specialisations may be established.

The tasks performed by the Corps of Medical Practitioners of the National Institute for Toxicology and Forensic Sciences involve technical assistance in matters within their

professional fields to judicial and governmental authorities, to the Department of Public Prosecution and to Forensic Doctors, during legal proceedings or preliminary enquiries. For this purpose, they will carry out requested analysis and research, issue appropriate opinions and reports and reply to questions addressed to them by: the aforesaid authorities, individuals during legal procedures and agencies or public entities that may affect the general public; they will also help to prevent intoxications.

They will render their services in the National Institute for Toxicology and Forensic Sciences, as well as in the Institutes of Legal Medicine, in the cases and under the conditions determined in the applicable Lists of Jobs.

3. Laboratory Experts of the National Institute for Toxicology and Forensic Sciences are career civil servants that form a National Corps of specialised assistance who render their services to the Judiciary.

The tasks performed by the Corps of Laboratory Experts of the National Institute for Toxicology and Forensic Sciences involve specialised expert assistance in scientific and research activities of the National Institute for Toxicology and Forensic Sciences.

They will render their services in the National Institute for Toxicology and Forensic Sciences, as well as in the Institutes of Forensic Medicine, in the cases and under the conditions determined in the applicable Lists of Jobs.

4. Laboratory Assistants of the National Institute for Toxicology and Forensic Sciences are career civil servants who form a National Corps at the service of the Judiciary for the performance of tasks involving assistance typical of their training, in scientific and research activities of the National Institute for Toxicology and Forensic Sciences, as well as of the Institutes of Legal Medicine, in the manner and meeting the requirements and conditions established in the Lists of Jobs of the aforesaid agencies.

5. Civil Servants of the Special Corps of the National Institute for Toxicology and Forensic Sciences shall depend, in terms of hierarchy, on the Director of the National Institute for Toxicology and Forensic Sciences or, if applicable, the Director of the Institute of Legal Medicine where they render their services.

CHAPTER II

STAFF REGISTER

Article 481.

1. In the Ministry of Justice there shall be a Central Staff Register for the civil servants rendering their services to the Judiciary in which all the civil servants of the Corps who render their services to the Judiciary shall be recorded and in which all acts that affect the administrative life thereof shall be recorded in a mandatory manner.

2. The Autonomous Communities shall establish Registers in their territories for the staff who render services to the Judiciary working there.

3. The Ministry of Justice shall approve the rules that will determine the information that must appear in the Central Staff Register and the precautions to be taken in order to ensure the confidentiality of those details under the terms established in the legislation in force.

In order to update the Registers' recorded data, the Ministry of Justice, with the cooperation of the Autonomous Communities with assumed powers, shall establish the procedures and cooperation instruments required in order to ensure the immediate entry of the details of all the staff, irrespective of the place where they render their services.

4. All the staff shall have unrestricted access to their personal file, which shall contain no details related to their race, religion or opinion, under any circumstances, or any other personal or social circumstance that is irrelevant to their job.

TITLE II

Of public job posting, entrance and professional promotion

CHAPTER I

PUBLIC JOB POSTING

Article 482.

1. Requirements of human resources with budget allocation shall be subject to a single public job posting per year, which shall be arranged in accordance with the criteria applied to the State Public Sector established in the General State Budget Act.
2. The Autonomous Communities shall determine in their territories the human resources requirements in relation to the Corps of civil servants at the service of the Judiciary, of whom they assumed competencies, and shall notify this to the Ministry of Justice.
3. The Ministry of Justice shall draft the Public Job Posting differentiating the need for resources determined by the Autonomous Communities and the needs in the rest of the State territory that have not been subject to transfer and shall present it to the Ministry for the Public Administrations, which in turn will present it to the Government for approval.
4. After the Public Job Posting has been approved, the Ministry of Justice shall arrange the call for the recruitment processes.
5. The Public Job Posting shall reserve a quota, not lower than five per cent of the vacancies to be filled, for disabled persons with thirty-three per cent disability or more, provided they pass the recruitment examinations and can provide evidence of their disability and compatibility to perform their duties and tasks in the manner determined by the regulations.

CHAPTER II

RECRUITMENT OF CIVIL SERVANTS AT THE SERVICE OF THE JUDICIARY

Article 483.

1. According to the principles contained in article 103.1 of the Spanish Constitution, career civil servants must be recruited following criteria of objectivity and according to the principles of equality, merit, ability and also announcement.
2. The content of the list of topics, as well as the tests to be taken shall be the same for each Corps in all the territory of the State, except for the tests that may be established to demonstrate the knowledge of languages and Civil Law, rules of traditional charters [*fueros*] or special laws, of the Autonomous Communities with assumed powers, which will be optional and, under no circumstances, shall be elimination exams, taking into consideration the points obtained according to the scale established for evaluation, for the only purpose of awarding a post in the relevant Autonomous Community.
3. Recruitment tests shall be announced and shall be resolved by the Ministry of Justice and shall be done in each territory in the different fields where the vacancies have been arranged in groups. The notices and specifications shall be the same for each Corps and, in any case, shall fulfil what this Law sets forth and also what the Royal Decree approving the "General Regulations on Entrance, Recruitment and Professional Promotion of civil servants at the service of the Judiciary" establishes and shall be announced in the Official Gazette of the Spanish State and in the Official Gazettes of the Autonomous Communities, simultaneously. If it wasn't possible to do it simultaneously, the terms and time limits established in the examination call shall, in any case, commence from the moment it is announced in the Official Gazette of the Spanish State.

4. The application requirements shall be drafted by the Commission in charge of Staff Recruitment and approved by the Ministry of Justice, previously negotiating with the main trade union organisations.

These requirements, which shall be binding on the Administration and the courts that will check the recruitment exams, may only be modified strictly subject to the rules governing General Government Institutions and Common Administrative Procedure.

5. The notice will mention the amount of vacancies and the territory for which they are offered. Vacancies in the territory of an Autonomous Community with assumed powers shall be offered for the territory of the Autonomous Community involved, save express waiver thereof, in which case they will be subject to their arrangement in groups.

Furthermore, when the amount of posts or the best development of the recruitment processes thus advises it, the vacancies may be arranged in groups corresponding to one or several territories.

Candidates may exclusively request their participation for one of the territories expressed in the examination call and, if they pass, they shall be transferred without any other possibility allowed to one of the vacancies in the territory.

Under no circumstances shall the recruitment process in each field be declared to have been passed by a number of candidates greater than the jobs for which the call was made and the proposal of candidates who have passed the exam infringing this limitation will automatically be considered null and void.

6. Disabled persons will be admitted in recruitment processes under the same conditions as the other candidates. The examination calls shall not establish any exclusion owing to psychological or physical disabilities, but there may be incompatibility with the performance of certain tasks or duties. The disabled persons taking the tests may request possible adaptations in relation to time and resources.

Article 484.

Access to the Corps shall be free and public and it will take place through competitive examination or internal competition.

1. Recruitment through competitive examination is the normal entrance system and it consists of taking the tests established in the examination call in order to determine the skill and ability of the candidate.

2. Recruitment through internal competition consists of taking the appropriate tests and assessing certain training conditions, merits or levels of experience, in the manner established in the examination call.

The use of the system of internal competition shall be exceptional.

Article 485.

1. Recruitment processes shall include taking a theory-practical course or doing a training period, which may be on a recruitment basis.

The grade awarded shall be used to determine the order of priority; nevertheless if the grades were for recruitment purposes, candidates who do not pass the recruitment shall lose the right to be appointed as career civil servants.

2. During the training period candidates shall be considered as trainee civil servants, with the rights and obligations established in the regulations.

3. The recruitment course or, if appropriate, the training period, may be carried out in training Centres, Institutes or Services of the Autonomous Communities, or in the Judicial Offices located in the territory thereof.

Article 486.

1. The drafting of the list of topics and the application requirements which will govern the recruitment processes for entrance into the Corps of Civil Servants mentioned in this Book, shall be entrusted to a Commission in charge of Staff Recruitment, which shall be composed of:

Four members representing the Ministry of Justice, one of whom shall be the chairman of the Commission and shall have the casting vote in case the sides have the same number of votes for passing resolutions.

Four representatives from the Autonomous Communities with competences in matters of the Judiciary, one of whom shall be the Vice-Chairman of the Commission.

2. This Commission shall also determine the training programme for the training period or a recruitment course if appropriate.

3. The rules governing the operation of the Recruitment Commission and the procedure used in the appointment of its members shall be established in a Royal Decree approving the Regulation on Entrance, Recruitment and Promotion of Civil Servants providing services for the Judiciary. The composition of this Commission, when it involves the recruitment of Corps whose management has not been transferred, shall also be established in the said Regulation.

4. The list of topics shall be approved by the Recruitment Commission and shall be the only list of topics for the whole national territory.

Article 487.

1. The performance and marking of the recruitment tests is done by Selection Boards which, for this purpose, shall be formed in each one of the territories for which vacancies were offered.

These Boards shall have functional autonomy and shall be responsible for their objectivity in the procedure and the fulfilment of the rules contained in the examination call.

2. The General Regulation on Entrance, Recruitment and Professional Promotion shall establish the composition of the Boards which, in any case, shall be composed of an uneven number of members, as well as the rules governing their operation, guaranteeing the specialisation of the members thereof and the agility in the recruitment process, notwithstanding their objectivity, as well as the incompatibility scheme, the rights and obligations of their members.

The members of the Boards shall be appointed by the Ministry of Justice. At the Boards formed in the territories of the Autonomous Communities with assumed powers, two of every five members shall be proposed by the competent authority of the said Community.

Article 488.

1. After the recruitment process has come to an end, the candidates that passed it, which number may not exceed under any circumstances the number of vacancies offered in each field and if, within the time limit established, they prove that they meet the requirements mentioned in the examination call, they shall be appointed as career civil servants by the competent authority of the Ministry of Justice.

2. The appointments shall be announced simultaneously in the Official Gazette of the Spanish State and the Official Gazettes or Journals of the Autonomous Communities with assumed powers.

3. The award of jobs to new civil servants shall be carried out according to their petitions among the jobs offered to them, following the order reached in the recruitment process.

The places of employment awarded shall be final, equivalent to those obtained by competition for all purposes.

The jobs offered to new civil servants must have been subject to prior transfer competition among those who are already civil servants. Nevertheless, if the Administrations competent in human resources management do not have, in their territories, enough vacancies to offer to new civil servants, as an exception and upon prior trade union negotiation, they may include jobs not included previously in the transfer competition.

In this case, the place of employment awarded to the new civil servant shall be provisional. The said civil servant shall take part in the first transfer competition called in which jobs are offered in the territory where the civil servant has been provisionally assigned, upon guaranteeing him the final place of employment in the field for which he took part in the recruitment process. Should this obligation be breached, he/she will be finally awarded any of the unawarded jobs in the whole national territory.

4. In order to be a career civil servant he/she must accept the awarded place of employment within the time limit established in the regulations.

Article 489.

1. The Ministry of Justice or, if appropriate, the competent authorities from the Autonomous Communities that have been the recipients of transfers of human resources for the operation of the Judiciary, may appoint temporary civil servants, owing to requirements in the service, whenever it is not possible, with the urgency required by the circumstances, to appoint a career civil servant, according to the objective criteria established in the Ministerial Order or, if appropriate, the order of the Autonomous Community that has received the transfers of human resources for the operation of the Judiciary.

2. The appointed persons must meet the requirements and the qualifications required for entrance in the Corps: they will take office within the time limit established in the regulations and shall have the same rights and obligations as those of civil servants, except for the fact that it is not a permanent job, and they shall have the same basic and complementary salary, except for the bonus received every three years.

3. They shall be dismissed according to the terms established in the Ministerial Order or, if appropriate, the order of the Autonomous Community and, in any case, when the vacancy is provided for, the regular employee returns or when it is not urgent any longer.

CHAPTER III

OF INTERNAL PROMOTION

Article 490.

1. Internal promotion is guaranteed by means of promotion from a Corps, for which entrance certain qualifications are required, to another Corps, for which entrance immediately superior qualifications are required or, in the case of Special Corps, by gaining access to the various specialisations in one Corps.

2. Fifty per cent of the vacancies included in the Public Job Posting for each Corps shall be reserved for internal promotion. Vacancies not filled through internal promotion processes shall be added to the vacancies under competitive examination.

3. An internal promotion shall be carried out through a system of internal competition under the terms established in the Royal Decree that approves the Regulation on Entrance, Recruitment and Professional Promotion. In any case, the principles of equality, merit, ability and publicity shall be respected.

4. Internal promotion to gain access to another specialisation in the same Corps shall take place among civil servants who carry out activities that basically coincide or are similar in professional content and specialisation level.

5. In any case, civil servants must meet the educational requirements established for access to the Corps or specialisations involved, have at least two years' seniority in the Corps to which they belong, meet the requirements and pass the established tests. These tests may be taken at a different examination call from the ones established for general entrance. For the purposes of calculating seniority, the seniority that can be demonstrated in the Corps of Assistants or Officers of the Judiciary from where they come, in each case, shall be taken into consideration and according to the Corps intended for the promotion.

Civil servants that gain access through internal promotion shall, in any case, have priority for vacant positions offered over candidates not therefrom.

Examination calls may establish exemption from tests which aim is to demonstrate knowledge already required to gain access to the original Corps, and successful courses and training programmes may be taken into consideration.

TITLE III

Acquisition and loss of civil servant status

Article 491.

1. The career civil servant status is acquired by subsequently meeting the requirements established in Volume V in this Organic Law for the Corps of Clerks of the Court.
2. The career civil servant status may be lost in the same situations as those contemplated in Volume V for the Corps of Clerks of the Court.

Article 492.

1. The retirement of civil servants may occur as follows:
 - a) Voluntary, at the request of the civil servant
 - b) Compulsory, when the civil servant reaches the age established in the laws
 - c) Owing to permanent disability that prevents them from rendering their services.
2. Voluntary retirement, at the request of the person concerned, shall apply if the civil servant meets the requirements and conditions established in the social security scheme applicable thereto.
3. Compulsory retirement shall be declared ex-officio when the civil servant reaches the age of sixty-five. Nevertheless, civil servants may voluntarily extend their active employment until they reach the maximum age of seventy, following the procedure established in the laws and regulations.
4. Civil servants shall also retire if they are permanently disable and this prevents them from carrying out the tasks inherent to their Corps. The appropriate disability file must be processed and this may be commenced ex-officio or at the request of the person concerned.

Article 493.

The following may be reinstated through the procedure established in the regulations:

Civil servants who lost that status owing to loss of Spanish nationality or due to permanent disability for service, once the objective cause that justified it has ceased to exist.

Those who have lost their status as civil servants owing to absolute or special disqualification as principal or complementary penalty or owing to punishment by deprivation of freedom for a fraudulent offence, once their civil and criminal liabilities have terminated and, if appropriate, the criminal record has been cancelled.

Furthermore, civil servants who had been dismissed from the services owing to a disciplinary penalty may be reinstated.

Article 494.

The Ministry of Justice shall be competent to appoint career civil servants. Likewise, it shall have powers to resolve on the loss of status as a civil servant and, if appropriate, their reinstatement, in the cases contemplated in this Organic Law, in the manner and using the procedure determined in the regulations, taking into consideration the circumstances and the crime or offence committed.

Voluntary, compulsory retirement or retirement owing to permanent disability as well as possible extension of active employment shall be agreed by the competent authority of the Ministry of Justice in any case.

TITLE IV

Rights, obligations and incompatibilities

CHAPTER I

RIGHTS, OBLIGATIONS AND INCOMPATIBILITIES

Article 495.

1. Career civil servants shall have the following professional rights:

a) Maintenance of their status as civil servants, effective performance of tasks and duties typical of their Corps and not to be dismissed from the job that they carry out except for the cases and under the conditions established in the laws.

b) Receive the established salary and compensation for their service in the rules in force.

c) To a professional career through mechanisms of professional promotion, as established according to the principles of equality, merit, ability and publicity.

d) To receive from the Administration the necessary initial and continuous training in order to improve their professional abilities so that they may adapt better and earlier to their jobs and this may make it possible for them to be professionally promoted.

In order to guarantee consistency and that the training actions established by the various Public Administrations competent in terms of staff management do not impede promotion and transfers of staff who render their services to the Judiciary in the national territory, coordination and validation measures in terms of continuous training shall be adopted.

e) To be notified by their managers or superiors of the tasks or assignments to be carried out and of their participation in the attainment of aims attributed to the unit where they render their services.

f) To their privacy and due consideration of their dignity, including protection against verbal or physical sexual abuse.

g) To holidays, leaves of absence and time off.

h) To receiving protection in terms of safety and health at work, for which reason the competent Administrations shall take the necessary measures to effectively apply the rules in force in relation to occupational risk prevention and health, assessing the initial risks and establishing emergency plans, as well as creating prevention services and a Central Safety and Health Committee.

i) To retirement.

j) To a social security scheme which for career civil servants and trainee civil servants shall be composed of the following coverage mechanisms:

1) The Scheme that governs State Pensioners which shall be governed by its specific rules.

2) The Judicial Mutualism regulated by Royal Legislative Decree 3/2000, of 23rd June, and the provisions implementing it.

2. The system of rights contained in the previous paragraph shall apply to temporary civil servants provided the nature of the right allows it and, for social security purposes, they will be integrated into the General Social Security Scheme.

Article 496.

Civil servants have the following collective rights, under the terms established in the Constitution and the Laws:

- a) To free association of professionals.
- b) To union membership.
- c) To trade union activity.
- d) To hold a strike, under the terms contained in the general National legislation applicable to civil servants, upon the guarantee that the basic services of the Judiciary will be maintained.
- e) To collective labour bargaining, to participate in the determination of employment conditions, for which there shall be appropriate frameworks that will allow a greater and more intense participation of the representatives of the civil servants rendering their services to the Judiciary, through work groups, desks, or any other discussion and negotiation forum.
- f) Right to meetings.

Article 497.

Civil servants rendering their services to the Judiciary are under the obligation:

- a) To respect the Constitution and the rest of the legal system.
- b) To carry out their tasks, fulfil their duties or their position with loyalty and impartiality and to serve the general interest with objectivity.
- c) To diligently fulfil the professional instructions received from their superiors in hierarchy in the field of their abilities.
- d) To duly carry out the tasks and fulfil the duties inherent to their job and carry out the tasks entrusted by their managers or superiors which are related to the former and are required for the attainment of the aims of the unit.
- e) To work the hours and at the times established.
- f) To keep the secrecy of the matters that come to their knowledge owing to their position or duties and not to make undue use of the information received as well as to keep the secrecy of classified matters or others which disclosure is legally prohibited.
- g) To report to the competent authorities orders which, in their opinion, oppose legality or constitute a crime.
- h) Fulfil the incompatibility and prohibition scheme.
- i) To be kind and respectful with all citizens.
- j) To provide their identity and rank to those who request it, except when this is impossible for security reasons.
- k) To ensure the preservation and appropriate use of the premises, material, documents and information in their charge, refraining from using the resources that are owned by the Administration for their own benefit and not to carry out their duties in a manner that would illegally benefit themselves or other people.
- l) To be courteous and considerate with their superiors in hierarchy, their colleagues and their subordinates.

Article 498.

1. Civil servants shall be subject to the incompatibility scheme described in the general legislation applicable to civil servants who render their services to the Public Administrations.
2. The performance of any activity that requires a compatibility declaration shall require prior authorisation by the Ministry of Justice or the Autonomous Community with assumed powers.

Compatibility for the performance of a private activity may not be authorised when the jobs carried out entail special dedication. The said authorisation shall not be appropriate for Forensic Doctors and Medical Practitioners who hold the positions of Director or Sub-Director in the

Institute of Legal Medicine or in the National Institute for Toxicology and Forensic Sciences and their Departments.

3. In any case, their duties shall be incompatible with:

a) In relation to the Special Corps:

- 1) The intervention as individuals in cases that could be related to their duties.
- 2) Duties as Company Doctors, in insurance companies, or the performance of jobs in those companies.
- 3) Any private activity involving expert reports.
- 4) Issue of death certificates, unless they render their services at the Registry Office and only in the performance of their duties.

b) In relation to the General Corps:

- 1) Work as Lawyer, *Procurador*, and to work for Lawyers and *Procuradores* or to perform any other profession that allows them to act in Courts of Law.
- 2) The status of Insurance Brokers and employees thereof or employees of Insurance Companies.
- 3) Holding the positions of Managers, Directors or Advisors in profit-making Companies.
- 4) The performance of private legal and administrative agencies [*gestorías*], either as the owner or as an employee in the said offices.
- 5) The performance of private duties involving expert's reports in Courts of Law.

Article 499.

1. The abstention of the civil servant shall be notified in writing giving the reasons thereof by whoever is competent to announce the order that puts an end to the litigation or case in the relevant request. Should the abstention be allowed, they shall be replaced in the process by whoever can legally replace them. Should the abstention be dismissed, they shall continue acting in the matter.

2. Their objection may only be possible for the causes legally contemplated and following the procedures established for the objection of Clerks of the Court with the following exceptions:

a) The government request shall be brought by the Clerk of the Court above them in hierarchy and shall be resolved by whoever is competent to announce the order that puts an end to the litigation or case in the relevant request.

b) If, in view of the statement of objection, the Clerk of the Court considers that the grounds are not classified in the Law, the Clerk shall immediately deny permission to the petition giving the reasons on which this refusal is based. No appeal may be brought against this order.

c) Once the statement of objection has been given permission to proceed, and on the following day to reception, the party objected to shall explain before the Clerk of the Court if the alleged ground applies or not. When the grounds for objection have been acknowledged as being true, the Clerk of the Court shall order replacement of the party objected to by whoever must legally replace him/her. No appeal may be brought against this order.

d) If the party objected to rejects the certainty of the alleged cause as grounds for the objection, the Clerk of the Court, upon listening to the allegations made by the party objected to, within the fifth day and having done the verifications that the party objected to proposes and that are appropriate or those that he considers to be necessary, shall send the proceedings to whoever must resolve to decide on the incident.

3. The precepts established in the procedural rules in relation to objections to expert witnesses shall apply to civil servants of the Corps of Forensic Doctors.

CHAPTER II

WORKING HOURS AND HOURS OF WORK

Article 500.

1. The general effective working day calculated over a year and working days worked under a special dedication scheme, as well as their specific characteristics, shall be determined by an Order of the competent authority of the Ministry of Justice, upon prior report from the Autonomous Communities with assumed powers and negotiation with the main Trade Union Organisations.

Civil servants must perform their activities under the terms determined by the requirements of the service. For this purpose, the Ministry of Justice, upon prior report from the Autonomous Communities with assumed powers and negotiation with trade union organisations, shall determine their remuneration according to the hours worked and special calculations when urgent or pressing proceedings entail overtime added to the normal working day.

2. The general working week shall be the same as the one established for the Public Administration. Civil servants may work reduced hours in the cases and under the conditions established by the laws and regulations.

3. Working days may be established only for the morning or for mornings and afternoons for certain judicial services or authorities, when it is thus required according to the service requirements and, in particular, in the units in charge of public assistance, in which time devoted to this service will tend to increase.

Civil servants may choose to work in the mornings and afternoons and this must be accompanied by incentives.

4. The distribution of the working day and the times shall be determined through the work schedule which every year is approved by the competent authority of the Ministry of Justice and of the Autonomous Communities with assumed powers in their own territories, upon the prior and favourable report of the General Council of the Spanish Judiciary and negotiation with the trade union organisations. The work plan shall be determined according to the amount of yearly hours of effective work.

Entry and exit times may be flexible provided a certain amount of hours are worked on a continuous basis.

The established times must in any case respect the times assigned to public hearings.

5. When the particular features of some judicial services or courts thus require, special times may be established, which shall appear in the Lists of Jobs and shall be subject to an extra remuneration as determined.

6. Failure to fulfil the working day shall give rise to the automatic discount of the remuneration corresponding to the time not worked, calculated in the manner established by the applicable regulations. For this purpose, effective work is considered to be work rendered within the times established in the manner determined, taking into consideration the appropriate compensation of hours and remunerated time off as well as remunerated hours credit devoted to trade union tasks.

Article 501.

1. The General Council of the Spanish Judiciary, after listening to the Ministry of Justice and the Autonomous Communities with assumed powers, as well as the Bar Association and the Association of *Procuradores* in each jurisdiction, shall determine which courts and other services of the Judiciary will have staff on duty, as well as the times and conditions under which the job will be done.

2. The Ministry of Justice and the Autonomous Communities in their territories shall guarantee the necessary assistance to the judicial authorities or services with staff on duty. For this purpose, upon prior negotiation with the Trade Union Organisations, they shall determine the

number of civil servants who will offer this service, their stay at the judicial authority or services or their availability and they shall arrange and assign the times to be worked.

CHAPTER III

HOLIDAYS, TIME OFF AND LEAVES OF ABSENCE

Article 502.

1. In general, paid annual holidays shall be one calendar month or twenty-two working days per full year of service or the proportional time applicable if the time of services effectively rendered over the year was less than that. Those who work in the Canary Islands may accumulate in one period the holidays of two years.

2. Holidays must necessarily be taken during the calendar year and until 15th January the following year, in minimum periods of five consecutive working days, according to the planning made by the competent authority, upon prior consultation with the legal representatives of the civil servants. For this purpose, Saturdays shall not be considered as working days, unless otherwise stipulated in the special times.

3. Furthermore, and according to the years of seniority completed in the Administration they shall be entitled to an increase in the holidays which shall be the same as the one established for the Public Administration.

4. In case of maternity leave, if this situation coincides with holidays, the holidays will be interrupted and holidays may be taken once the maternity leave has come to an end, within the calendar year or until 15th January the following year. Likewise, the holidays will be interrupted if during the same the person is admitted to hospital, in which case he/she may take the holidays once he/she has been discharged from hospital, in the same period as the one established in the previous paragraph.

5. The Ministry of Justice and the Autonomous Communities in their territories shall be competent in granting holidays for which purpose, upon prior negotiation with the trade union organisations, they shall lay down the rules that will establish how the holidays may be enjoyed and the procedure followed for them to be granted.

6. In any case, the holidays will be granted at the request of the person concerned and will be enjoyed according to the requirements of the service. If the requested period was rejected, the said rejection must specify the grounds thereof.

Article 503.

1. Under justified circumstances, civil servants shall be entitled to the same time off and the same duration as those established in the regulations in force applicable to civil servants of the Public Administration, with the exception of time off given for personal reasons which will be nine days, which under no circumstance can be added to the yearly paid holidays.

2. The enjoyment of these leaves shall not affect the financial rights of civil servants.

Article 504.

1. For marriage, civil servants shall be entitled to a marriage leave of fifteen days and it shall be granted with full financial rights.

2. Leaves may be granted for training and improvements in the following cases:

a) To attend training courses included in the Training Plans held every year, organised by the Ministry of Justice, the Autonomous Communities, trade union organisations or other public or private entities.

The duration and enjoyment manner shall be determined by the duration and programme of the courses to be taken and no limitation on the earnings shall be involved.

b) To take part in courses, conferences or seminars, provided they are related to the duties inherent to the Corps of the civil servant and they entail completing training for the performance thereof.

Granting shall be subject to the requirements of the service and budget availability and the duration shall be determined by the duration of the courses, conferences and symposia.

These leaves shall give a right to receive the basic salary and child care allowance.

3. Civil servants may enjoy leaves for personal reasons with no right to any kind of remuneration, which accumulated duration may not under any circumstance exceed three months every two years of effective employment and granting it shall be subject to the requirements in the service.

4. After having passed the recruitment tests those who were appointed as trainee civil servants and were already rendering remunerated services in the Judiciary as civil servants shall be entitled to an extraordinary leave for the period of time during which this situation takes place and shall receive the salary applicable to trainee civil servants as established in the regulations in force.

5. Sickness or an accident that prevents the normal performance of their duties shall give rise to a sick leave.

Notwithstanding the obligation of notification, in the manner established in the regulations, of the impossibility to go to work for reason of sickness during the working hours of the day when this takes place, civil servants must request from the competent authority, a sick leave on the fourth consecutive day of absence from work.

The initial leave shall be granted for the time considered by the doctor as the expected duration required to overcome the illness, but it may never exceed fifteen days. If illness persists, the initial leave shall be automatically extended in the manner determined by the competent authority for its granting, which extension will become null if the person heals before.

The initial leave as well as the extensions shall be granted upon prior presentation of the medical certificate that certifies the illness and the impossibility to go to work.

Sick leaves derived from the same pathological process shall be granted for a maximum of 12 months that may be extended for a further period of six months, when it is assumed that during those periods the employee may be discharged as he/she healed. After these time limits have expired, the leaves will be extended until the retirement declaration on the grounds of permanent disability or the medical discharge which may not exceed under any circumstances 30 months after the date of the initial leave application.

For this purpose, a new sickness leave shall be considered to exist when the pathological process is different and, in any case, when the leaves have been suspended for at least one year.

Sickness leaves shall entitle to full financial rights for the first 6 months from the date on which the initial leave was requested, provided they derive from the same pathological process and in a continuous manner or with an interruption of up to a month.

In any case, the person in charge of staff may request only from the appropriate Medical Inspection the review of a process in order to determine if the causes that originated the granting of the leave still exist.

Article 505.

1. The Ministry of Justice and the Autonomous Communities with assumed powers shall be competent to grant time off and leaves of absence as established in this Organic Law, in relation to civil servants who work in their territories, in the manner and according to the procedure established in the rules passed for this purpose by them.

2. Furthermore, it shall be in charge of controlling the temporary disability of the civil servants working for the Judiciary, with powers to ask for the medical advice considered necessary, for which purpose they may establish cooperation systems with the public agencies or entities in their territories that are in charge of inspection, assessment and follow-up of temporary disability control of the general social security scheme and of those of the special schemes.

TITLE V

Administrative situations

Article 506.

Career civil servants of the Corps mentioned in this Volume may be in any of the following administrative situations:

- a) Active employment.
- b) Special services.
- c) Leave on personal grounds, to take care of family members.
- d) Leave on personal grounds, to render services in the Public Sector.
- e) Leave on personal grounds, for personal reasons.
- f) Leave on personal grounds for family grouping.
- g) Suspension of duties.

Article 507.

1. Civil servants of the Corps as mentioned in this Volume shall be in active employment situation when they carry out a job in any of the centres where they have been assigned as determined in article 521 of this Law.

2. Furthermore, the aforesaid civil servants shall also be considered to be in active employment:

- a) When they render their services at the Constitutional Court, the General Council of the Spanish Judiciary and at the Audit Court unless, pursuant to the provisions contemplated in the specific legislation of the aforesaid constitutional courts they should be in another situation.
- b) When they render their services at the Spanish Parliament [*Cortes Generales*], pursuant to the provisions contemplated in the General Statute thereof and provided they should not be in any other situation.
- c) When they become members of the Legislative Assemblies of the Autonomous Communities and they do not receive regular salaries for the performance of their duties.
- d) When they become members of the Local Corporations, unless they hold a remunerated position and are exclusively devoted thereto.
- e) When they render their services at the Cabinets of the Government Presidency, of Ministers and of State Secretaries provided they choose to remain in this situation.
- f) When they take jobs at other Public Administrations provided the Lists of Jobs expressly contain a provision for this purpose.
- g) When they have a job at the General Judicial Mutual Society assigned to civil servants providing services at the Judiciary.
- h) When leaving a job for another job obtained through recruitment procedures, while remaining in the job.
- i) When rendering services in public agencies or entities in the concept of civil servant.
- j) When it is thus determined in a rule having the force of Law.

3. The enjoyment of regulatory leaves or time off shall not change the situation of active employment.

4. Civil servants in situation of active employment have all the rights, privileges, duties and responsibilities inherent to their condition.

Article 508.

1. Civil servants of the Corps at the service of the Judiciary shall be declared in situation of special services in the same cases as those established in the applicable legislation for civil servants of the Central Public Administration unless, pursuant to the provisions contained in this Law, they must remain in another situation.
2. The period of time during which civil servants are in situation of special services shall be included in the calculation for the purposes of promotions, bonuses every three years of work and entitlement to pensions, except for civil servants who, having entered the services of the Institutions of the European Communities or into the services of similar entities and agencies, exercise the right to be transferred established in article 11.2 of Annex 8 of the Staff Regulations of Officials of the European Communities, notwithstanding the financial effect that may derive from promotions and consolidated bonuses every three years until they exercise this right.
3. Civil servants declared to be in this situation shall be entitled to their jobs being reserved in the same town, under similar conditions and remuneration as the ones they had when they started in the said situation, provided they started in this situation from a situation of active employment or another situation that acknowledged the same right. If during the time in which they remain in this status of special services they take part in any competition, their reinstatement shall take place in relation to the town and the conditions of the place of employment acquired in the competition.
4. Civil servants in status of special services shall receive their salary for the effective job or position carried out and not the status that would apply to them as civil servants, notwithstanding their right to receive acknowledged bonuses every three years.
5. Under no circumstance may they provide expert advice to courts while they remain in this situation.

Article 509.

1. Civil servants shall be entitled to a leave of no more than three years to take care of each child, whether through adoption or permanent or pre-adoption fostering from the date of birth or, if appropriate, the court or administrative order. Granting the leave shall be subject to a prior declaration of not performing any other activity that prevents or damages their childcare.
2. Civil servants shall also be entitled to a leave of no more than one year to take care of a family member dependent on them, up to the second degree of consanguinity or by affinity whom, for reasons of age, accident or illness, may not take care of himself and does not perform a remunerated activity.
3. In both cases, this leave will be one per each causing subject. When a new causing subject gives rise to a new leave the commencement of the period thereof shall put an end to the previous leave.

This leave is an individual right of civil servants. If two civil servants originated the right to enjoy this leave because of the same causing subject, the Administration may restrict the simultaneous exercise giving justified reasons thereof in relation to the running of the services.

The period of time during which this situation remains shall be calculated for the purposes of three-year bonuses and entitlement to pension. In the first year, civil servants shall be entitled to their job being reserved and to be reinstated in their job without having to request this reinstatement and to take part in the competitions called.

After this period, this reservation shall only apply to a job in the same town and with the same salary and civil servants must request their reinstatement in active employment one month before the expiration of the maximum period established for their remaining in such a status. Failure to do so shall give rise to an ex-officio declaration of leave on personal grounds for personal reasons.

Article 510.

1. Civil servants of the Corps mentioned in this Volume shall be declared to be in a situation of leave on personal grounds, ex-officio or at the request of the person concerned, when they require it for personal reasons, when they are in a status of active employment in another Corps

or Scale of any of the Public Administrations or if they start to render their services in agencies or entities of the public sector and provided no other situation applies to them and owing to family grouping, with the same requirements and effects as those established in the legislation applicable to civil servants of the Central Public Administration.

2. Furthermore, the situation of leave on personal grounds shall be declared ex-officio for personal reasons of the civil servants if, after the cause that gave rise to a change to a status different from that of active employment, they fail to fulfil the obligation to request their reinstatement therein, within the statutory time limit.

Article 511.

1. The civil servant that has been declared in a status of suspension shall be deprived, during the time he remains in the said situation, of the performance of his duties and he may not render services in any Public Administration or Public Agencies or Entities related thereto.

2. The status of suspension from duties may be provisional or final.

3. Provisional suspension may be decided on a precautionary basis while legal or disciplinary proceedings are being conducted and it shall take place in the following cases:

a) When for any fraudulent crime the examining magistrate in the criminal procedure adopts it as a precautionary measure. In any case it shall be agreed when the suspect has been remanded in prison, remanded on bail, order of committal for trial or order for commencement of hearing in the abbreviated procedure.

b) While the disciplinary proceedings are being conducted by the authority that ordered the commencement of the proceedings provided the suspension does not exceed six months, unless there is deadlock of the proceedings attributed to the person concerned.

c) When the civil servant may not go to work as a result of having been deprived by a Judge or Bench of Judges, owing to a criminal procedure, of the right to live in certain places or to be near certain people.

4. This suspension shall be final if it is imposed by virtue of a final criminal conviction or final disciplinary penalty.

5. The effects derived from a status of suspension, whether provisional or final, shall be those established for civil servants of the Central Public Administration declared to be in this situation.

Article 512.

The Ministry of Justice or the Autonomous Communities with assumed powers shall decide on the granting or declaration in these administrative situations in relation to civil servants who work in their territories giving for this purpose the necessary orders in relation to manner and applicable procedure.

Article 513.

1. Changes in administrative situations shall be notified in any case to the Central Staff Register mentioned in article 481 for annotation purposes and they may take place, provided the requirements in each case are met, without the need to be previously reinstated to active employment.

2. If the new situation entails the right for a job to be reserved, civil servants may take part in competition calls for recruitment remaining in the appropriate status and a job with the same level and similar salary to the job acquired and in the same municipal district shall be reserved.

Article 514.

1. Civil servants who come from administrative situations with a right for their job to be reserved shall be reinstated in active employment in the manner and under the conditions determined by the authority competent to grant them.

2. Reinstatement in active employment from situations that do not entail reservation shall occur through participation in general or specific competition processes or through the award of the job under the selection system.

3. Reinstatement in active employment, on a provisional basis, through assignment to a vacant post for which the civil servant meets the requirements that appear in the Lists of Jobs, may also take place.

Reinstatement through a provisional assignment shall in any case be subject to the service needs and the civil servant assigned shall be under the obligation, in order to acquire a final post, to take part in the competitions called for recruitment and to request, among others, the post that he holds on a provisional basis.

If the civil servant does not have a final posting he will be assigned, again on a provisional basis, to a vacant post in any Judicial Office located in the province or in the territory in which the vacancies for competition purposes have been assembled.

If the civil servant does not take part in the first competition called after the provisional assignment he shall change to a situation of leave on personal grounds for personal reasons.

TITLE VI

Remuneration system

Article 515.

Civil servants from the Corps rendering their services to the Judiciary as mentioned in this Volume, may only receive remuneration for the the elements established in this Organic Law.

Article 516.

Remuneration shall be basic and complementary.

A) Basic remuneration shall be the same as that established by Law for the Judicial and the Prosecutor Careers.

B) Complementary remuneration may be: Fixed in amount and regular in accrual and adjustable amounts.

1) Fixed supplementary remuneration in amount and on a regular basis is:

a) The general supplement for position which shall remunerate the various types of positions established for each Corps.

b) The specific supplement to remunerate particular conditions thereof according to their special technical difficulty, dedication, responsibility, incompatibility, laboriousness, or danger.

2) Adjustable supplementary remuneration is:

a) Productivity supplement to remunerate special productivity, extraordinary activity and interest or initiative of the civil servant in the performance of his work as well as his taking part in specific action programmes and in the attainment of the aims determined by the Ministry of Justice and the Autonomous Communities with assumed powers, in their territories, having listened to the General Council of the Spanish Judiciary and upon prior negotiation with the main trade union organisations. The accrual of this supplement in a period shall not give rise to any kind of right to maintain it for subsequent periods.

b) Bonuses for extraordinary services to remunerate services that are rendered outside normal working hours may not under any circumstance be fixed in amount or regular in accrual, nor shall they give rise to any right to being maintained for subsequent periods.

Article 517.

1. Apart from the remunerations described in the previous article civil servants who render their services in judicial authorities or services in which the General Council of the Spanish Judicial, having listened to the Ministry of Justice and the Autonomous Communities, has considered that permanent and continuous attention was needed, they shall be entitled to receive, as being on duty, a remuneration which quantity shall be determined in a Ministerial Order at the joint proposal of the Ministers of Justice and Finance, upon prior negotiation with the trade union organisations, according to the kind of on-duty service involved.

This supplement shall be the same in all the territory and receiving it shall depend on rendering the on-duty service, and its payment shall be appropriate once its performance has been demonstrated. Its accrual shall not give rise to individual rights for subsequent periods.

2. The staff mentioned in this Volume shall, in any case, receive the appropriate allowance for the service.

Article 518.

1. Civil servants who are in training or doing recruitment courses as those contemplated in article 485 shall be appointed as trainee civil servants and their remuneration scheme shall be the one established in this Law for civil servants who are in training to enter the Corps of Clerks of the Court.

2. If their training takes place while at a job, the amount as supplementary remuneration thereof shall be paid by the Ministry of Justice of the Autonomous Communities with assumed powers, in which territory the job is being carried out.

Article 519.

1. The amount of the basic salary shall be the same for each of the Corps, irrespective of the place where the services are rendered or where the job is being performed, and shall be determined in the General State Budget Act for each year, according to the specialisation of the Corps rendering services to the Judiciary.

The amount for seniority shall involve five per cent of the salary for every three years of employment.

When a civil servant renders his services subsequently in different Corps he will receive three-year bonuses accrued therein, in the amount appropriate for the Corps in which they improved.

When a civil servant changes Corps before completing a three-year period, the fraction of time elapsed shall be considered as time of services rendered in the new one.

Civil servants shall be entitled to receive two yearly bonuses in the amount, each one of them, of one monthly salary and seniority and, if appropriate, an amount proportional to the general supplement of the job under the terms established by law for the Judiciary, which shall be paid in the months of June and December, provided the recipients were in situation of active employment and with a right of accrual of the salary on the first day of the aforesaid months.

2. For the purposes of general job supplement, a Royal Decree shall determine the basic posts of the various Units that form part of the Judicial Offices, as well as other non-judicial services, establishing values for each one of them. The amount shall be established in the General State Budget Act.

3. The individualised amount of the specific supplement shall be determined by the Ministry of Justice or the competent authority of the Autonomous Community, upon prior negotiation with the trade union organisations in their territories, when the lists of jobs are drafted according to the assessment of the particular conditions thereof. All posts shall have a specific supplement assigned. No more than one specific allowance shall be assigned to a single post.

4. The Ministry of Justice or the competent authority of the Autonomous Community, in their territories, shall individually specify the amounts of productivity allowance and the determination of civil servants entitled to receive it, according to the distribution criteria established for the various programmes and aims. The aforementioned authorities shall establish participation formulae of trade union representatives in their specific determination and formal control of the allotment.

5. The Ministry of Justice and the competent authority of the Autonomous Communities, in their territories, shall individually assign the amounts of the bonuses and the determination of the criteria for their receipt.

TITLE VII

Organisation of the professional activity

Article 520.

1. The civil servants of the Corps mentioned in this volume shall perform the jobs of the units composing the Judicial Offices and, if appropriate, in the administrative units and common offices as mentioned in article 439; those of the Institutes of Forensic Medicine and those of the Institute of Toxicology and their Departments.

2. Furthermore, they may provide services at the General Council of the Spanish Judiciary, at the Constitutional Court and the Auditors Court under the terms and conditions contemplated in the rules governing staff at the services of the aforesaid constitutional authorities and at the General Judicial Mutual Society in the posts determined in the List of Jobs of the aforesaid public authority.

3. They can also take jobs from other Public Administrations provided the Lists of Jobs expressly contain a provision for this purpose. While they remain in these jobs, the legislation applicable to the Civil Service of the Administration where they hold their positions shall apply, and they shall remain in active employment in their original Administration.

Article 521.

1. The organisation of staff and their integration in the various units that compose the structure of the Judicial Offices shall be made through the approved lists of jobs which, in any case, shall be made public.

2. The lists of jobs shall contain the staff for all the jobs of the various units that compose the Judicial Office, including those that must be performed by Clerks of the Court, and they shall indicate the name, location and basic characteristics, the requirements needed for the jobs, the general position allowance and the specific allowance.

3. The lists of jobs must necessarily contain the following specifications:

A) Managing Centre. Posting centre.

For the purpose of organising the jobs and them being covered by civil servants, managing centres shall be the competent authorities of the Ministry of Justice or the competent authority of the autonomous communities for staff management, who will draft the list of jobs in their territories.

A posting centre shall be:

- Each one of the procedural common services.
- The procedural units directly assisting certain bench of judges working in the same municipal district.
- The procedural units directly assisting judges in the same jurisdictional area working in the same municipal district.
- The Central Registry Office and Single Registry Offices in each town, if they exist there.
- Each one of the Department of Public Prosecutions or Public Prosecution assigned office.
- At the Institutes of Legal Medicine, those whose formation rule establishes them as such.
- At the National Institute for Toxicology and Forensic Sciences, those whose formation rules establishes them as such.
- The General Judicial Mutual Society.

- Each Judicial Office that assists Magistrates' Courts with more than 7,000 inhabitants or less than 7,000 inhabitants, with functional staff depending on their work load.

B) Type of job. For this purpose jobs are classified as general and singular.

- General jobs are not differentiated within the organisational structure and they involve the performance of tasks or duties inherent to a corps and, therefore, they have no individual content functionally speaking. Jobs in procedural units that directly assist judicial authorities as a general rule shall be classified as general.

- Singular jobs are those that are differentiated within the organisational structure and they imply the performance of tasks or duties assigned in an individual manner. For this purpose, in the autonomous communities that have their own language, the knowledge thereof shall only be a determining factor of the singular nature of the post, when its requirement derives from specific tasks assigned thereto in the lists of jobs.

C) Recruitment system. For the purpose of the lists of jobs the final recruitment shall occur through a process of competition or selection.

D) Corps to which the jobs are assigned. The jobs shall be assigned as a general rule to a single corps. However, if there are jobs in which degrees are not considered to be an essential requirement and the qualification required may be determined by factors other than belonging to a certain corps, it is possible for a job to be assigned to two corps.

The jobs in the lists of jobs of the Judicial Offices shall be assigned on an exclusive basis to the corps at the service of the Judiciary according to their specialised knowledge.

4. Apart from the requirements mentioned above, the lists of jobs may contain:

1) A specific Degree apart from the general academic level of the Group to which the job is assigned, when its need is objectively presumed from the nature of the tasks to be carried out.

2) Specific training when from the nature of the tasks involved in the job its requirement is presumed and it can be justified in a document.

3) Oral and written knowledge of the official language of the autonomous communities that acknowledge this language as such.

4) Computer knowledge when it is required for the job.

5) Other conditions deemed relevant in the content of the post or its performance.

Article 522.

1. The Ministry of Justice shall draft and approve, upon the prior report of the General Council of the Spanish Judiciary and negotiation with the main trade union organisations, the lists of jobs arranged for the jobs of the Judicial Offices in their field of action.

Furthermore, it shall be in charge of the organisation of the jobs of the Judicial Offices assigned to the Corps of Clerks of the Court in the entire national territory, upon the prior report of the General Council of the Spanish Judiciary and negotiation with the main trade union organisations.

2. The autonomous communities with assumed powers, upon the prior report of the General Council of the Spanish Judiciary and negotiation with the trade union organisations, shall initially approve the lists of jobs of the Judicial Offices in their territories. The final approval shall be given by the Ministry of Justice which may only refuse to give it for legality reasons.

3. The Ministry of Justice, upon the final approval of each list of jobs, shall determine who must be assigned to the Corps of Clerks of the Court.

4. The Ministry of Justice and the autonomous communities with powers assumed in their territories shall be in charge of drafting and approving the lists of jobs for the administrative units as mentioned in article 439.

Article 523.

1. After the initial lists of jobs have been approved the autonomous communities and the Ministry of Justice may, in their own territories:

- 1) Re-distribute non-individualised jobs within each Judicial Office.
- 2) Re-distribute the jobs of the eliminated units of the Judicial Office, as a result of modifying the organisational structures.
- 3) Re-arrange the jobs among the various judicial offices.
- 4) Cut back on jobs.

2. In any case, the occurred modifications in the initial lists of jobs must take into consideration the principles contained in this Law for the re-distribution and re-arrangement of staff and specifically the following rules:

- 1) The competent Administrations shall draft a justified project which shall be negotiated with the main trade union organisations.
- 2) The name, remuneration and other characteristics of the jobs involved must be kept the same and, under no circumstances, will this entail a change of town for the staff.
- 3) In any case, the minimum staff established for each direct assistance procedural unit shall be respected.
- 4) A prior report from the General Council of the Spanish Judiciary shall be required and for its effectiveness prior notice to the Ministry of Justice shall be compulsory.

TITLE VIII

Recruitment and transfers

Article 524.

1. Recruitment shall take place through competition processes, which shall be the ordinary system, or selection, in accordance with what the Lists of Jobs specify and according to the nature of the tasks to be performed.
2. The jobs may be covered provisionally through provisional assignment or as secondment.
3. Furthermore, and for organisational purposes, there may be recruitment through re-distribution or re-arrangement of staff.

Article 525.

The Ministry of Justice and the autonomous communities with powers assumed shall be competent for the recruitment for jobs located in their territories in the cases, under the conditions and according to the procedures established in this Organic Law and in the General Regulation on Entrance, Recruitment and Professional Promotion.

Article 526.

1. Competition consists of verifying and assessing the merits that may be claimed, in accordance with the requirements and according to the scale established therein.

Bearing in mind the nature and duties of the jobs intended to be covered, the competition may be:

- a) Competition for transfer: Under this process general jobs will be covered.

The assessment of qualifications and achievements shall be carried out in the manner and according to the scale determined in the Royal Decree that approves the General Regulation on Entrance, Recruitment and Professional Promotion.

- b) Specific competition: Under this process singular jobs will be covered. It will consist of two stages:

1) At the first stage, the general qualifications and achievements will be verified and assessed according to the provisions contained in paragraph a) of this article.

2) At the second stage, specific skills will be assessed through knowledge, experience, degrees and other elements that guarantee the suitability of the candidate for that job. These skills shall be assessed in the manner determined in the examination call without this second stage entailing under any circumstances more than 40% of the total maximum points in both stages.

2. Under the selection process, the competent authority shall assess the suitability of the candidates in relation to the requirements established for the job.

Under this system management-level posts shall be recruited, as will jobs which, owing to their special responsibility and dedication, it is so established in the lists of jobs.

3. In any case, the public call must be announced in the Official Gazette of the Spanish State and the Official Gazette of the autonomous community, indicating the title of the post, the location, and the remuneration, as well as, if appropriate, the minimum requirements.

Article 527.

Notwithstanding the possibility of appointing temporary civil servants for reasons of emergency and necessity as mentioned in article 472.2, vacant posts, or in case of absence of the regular civil servant, may be offered on a temporary basis in the following manner:

1. Until on-going recruitment has been solved or if despite having been solved no suitable candidate was found for the postings offered, vacant postings may be covered by civil servants who meet the requirements for the duties involved in the posting, by granting a secondment, which may be voluntary or compulsory.

Civil servants who are in a status of secondment shall keep their original post and shall be entitled to the supplementary remuneration entailed in the posting.

If the secondment is compulsory and the remuneration of the job is lower than that of the original job, the supplementary remuneration that is higher is guaranteed.

2. As an exception, vacant postings may be provisionally covered in the way of replacements or if the regular civil servant is absent owing to protracted leaves of absence or time off.

To be appointed as a replacement, the requirements established for the performance of the duties involved in the list of jobs must be met.

The rules shall lay down the cases and procedure applicable to replacements. If the post is assigned to the Corps of Clerks of the Court, the procedure and requirements applicable to the replacement shall be the ones expressly established for the appointment of deputy clerks.

Furthermore, the jobs may be performed on a temporary basis by provisional assignment, in case of termination of service and resignation.

Civil servants appointed for selection postings may be terminated discretionally by order in which the grounds will only refer to the competence to announce it.

Regular civil servants on the job through specific competition or by selection, may resign thereto, by presenting an application and giving the reasons, which shall include the professional or personal reasons, provided they have performed the said job for at least one year.

In the cases above, civil servants shall be provisionally assigned to an appropriate job in their corps until they procure another permanent job, in their municipal district and taking effect one day after the date of the order of termination or acceptance of the resignation.

Career civil servants who are reinstated in active employment from situations that did not entail the reservation of a post may also be assigned on a provisional basis to a relevant post in their corps. In this case, the assignment shall depend on the needs of the service.

Article 528.

1. Re-distribution of staff.

Civil servants who occupy permanent general posts may be assigned for reasons of service needs to other posts of the same nature, general allowance for the post and the specific allowance in the same place where he is employed.

The post accessed through re-distribution shall be permanent and the calculation of the minimum time spent in a job to be able to take part in a competition shall commence on the date of access to the post on a permanent basis, calculating the minimum time spent, according to the provisions of article 529.3, in relation to the job performed when the re-distribution occurred.

2. Re-organising of staff.

For organisation reasons and through the appropriate modifications in the lists of jobs, the general posts and the regular employees thereof may be assigned to other places for employment.

This transfer process shall be carried out based on a project presented by the competent Administrations and it shall be negotiated with the main trade union organisations through voluntary transfer procedures.

Posts or positions not covered shall be subsequently assigned through a compulsory re-assignment process, under the terms established in the regulations.

Civil servants that have been affected by a compulsory re-organisation shall be exempt from the obligation of minimum time holding the post as set out in article 529 and shall have priority to be assigned a job in their original place of employment in the first competition arranged to offer jobs in the said location.

In order to determine which position will be affected by re-organisation, when there is more than one of the same characteristics, the voluntary criteria on the part of the civil servants who perform the jobs shall apply and, otherwise, their seniority in the job.

Article 529.

1. The Ministry of Justice and the autonomous communities shall call national competitions for the recruitment of vacancies in their territories.

The General Regulation on Entrance, Recruitment and Professional Promotion of civil servants in the Judiciary shall establish the rules applicable to the notice of competitions as well as the general qualifications and achievements to be considered as an advantage.

2. Civil servants may take part in these competitions, irrespective of their administrative status, unless they have been irrevocably declared to be suspended, in which case they will not take part therein while this suspension is in place, provided they meet the general conditions required and the requirements stated in the notice, at the date on which the time limit established for presenting the applications expires and with no limitation as to the place of employment.

3. Civil servants may not take part in a transfer competition for the recruitment of general positions until a time limit of two years has expired from the date of announcement of the order which gave notice of the transfer competition in which they obtained their latest final assignment, from which position the civil servants are taking part, or the order which awarded the final assignment, if it involves new civil servants.

In order to calculate the years, the calendar year in which the relevant orders were issued, irrespective of their date, will be considered the first year and the following calendar year, as the second year.

4. Civil servants who do not have a permanent post, who are under the obligation to take part in competitions pursuant to the regulations in force, shall be excluded from the temporary limitation contemplated in the previous section.

Article 530.

In the notices for posts in the autonomous communities with assumed powers whose language is official, the oral and written knowledge thereof shall be considered as a merit. For certain jobs, it may be considered as a requirement to be assigned the job, if the requirement thereof

derives from the characteristics of the duties to be performed and it is thus established in the lists of jobs.

Article 531.

1. Filling vacant general posts shall be carried out through transfer competitions, which notice shall be announced and resolved in their territories by the Ministry of Justice and by the autonomous communities that have received the transfers of human resources and in which all civil servants that meet the requirements may take part, regardless of the territory where they are employed.

2. These competitions shall be called at least once a year, on the same date in the entire territory of the State and each Administration giving the announcement shall resolve, so that the persons concerned may not take possession of more than one job and in the same corps.

For this purpose, the General Regulation on Entrance, Recruitment and Professional Promotion of civil servants of the Judiciary shall contain the rules applicable to transfer competitions, which shall ensure effective participation under equal conditions for all civil servants, establishing a system that permanently guarantees immediate and agile filling of vacant posts, as well as a schedule for the call and resolution of transfer competitions that allow them to determine the posts to be offered to new civil servants, pursuant to the provisions contained in article 488.3.

3. Announcements shall be published through the Official Gazette of the Spanish State and the Official Gazettes or Journals of the autonomous communities.

4. The announcements shall offer the vacant posts determined by the competent Administrations and those resulting from the competition itself, provided cutting back on these jobs has not been considered.

Article 532.

1. Specific competitions shall be called and resolved by each competent Administration in their territory, seeking that the competitions and their resolution does not interfere with the results of the competitions called by the relevant Administrations. Civil servants of the Judiciary may take part in them, irrespective of the territory of their jobs.

2. The general qualifications and achievements determined in the General Regulation on Entrance, Recruitment and Professional Promotion of the civil servants of the Judiciary shall be considered an advantage, in accordance with the criteria established therein.

3. The specific qualifications and achievements shall coincide with the characteristics of each post and shall be specified in the announcement but, under no circumstances, may they exceed the maximum percentage of the total points established in article 526.

Article 533.

1. The aforesaid qualifications and achievements shall be verified and assessed by a commission, which shall be composed of four members representing the announcing Administration appointed by it, of whom at least one will be a civil servant at the service of the Judiciary.

The main trade union organisations in the relevant territory shall take part as members of the assessing Commission in an inferior number to those appointed by the Administration.

2. All members must belong to corps of the same or higher level of education as that of the job called and they shall perform jobs of the same or higher rank as that of the job called.

The Chairman and the Secretary shall be appointed by the calling authority from among the members appointed by the Administration.

TITLE IX

Disciplinary responsibility

Article 534.

1. Clerks of the Court and civil servants of the Corps referred to in this Volume shall be subject to disciplinary responsibility and shall be penalised in the cases and according to the principles established in this Organic Law.

2. Apart from the perpetrators, the superiors who consent to, as well as those who induce or who cover up, the very serious and serious offences shall be disciplinary liable, if from the said events serious damage is caused to the Administration or citizens.

3. No sanction may be imposed for a serious or very serious offence committed unless a disciplinary proceeding is processed for this purpose, by means of the procedure established in the General Regulations on Disciplinary Systems applicable to civil servants who render their services to the Judiciary enacted for the implementation of this Law.

In order to impose sanctions for minor offences, a proceeding does not have to be previously brought, except for the hearing with the person concerned.

4. When from the preliminary enquiry in a disciplinary proceeding it is discovered that there is reasonable evidence that a criminal offence has been committed, the enquiry will be suspended and the State Public Prosecution will be notified thereof.

5. The commencement of a criminal procedure shall be no impediment for the commencement of a disciplinary enquiry for the same facts, but no resolution shall be given in the latter until there is a final judgment or stay of proceedings in the criminal case.

In any case, the statement of facts contained in the decision that puts an end to the criminal proceedings, shall link to the decision announced in the disciplinary proceedings, notwithstanding the different legal classification of either proceedings.

Criminal and disciplinary penalties may be imposed on the same facts when there is no identity of legal ground and protected legal right.

6. During the conduct of the proceedings provisional suspension may be ordered as a precautionary measure and it shall require justification.

7. Disciplinary penalties shall be recorded in the Staff Register, where the offences committed will be mentioned. These recordings shall be cancelled once the time limits specified in the regulations have expired.

Article 535.

Disciplinary proceedings established in the implementation of this Organic Law shall ensure the Civil Servant for whom disciplinary proceedings were brought, apart from those acknowledged by article 35 of Law 30/1992, of 26th November, on Rules governing General Government Institutions and Common Administrative Procedure, the following rights:

- a) The right to presumption of innocence.
- 2) The right to be notified of the appointment of the Examining Magistrate and Clerk of the Court, as well as to challenge those appointments.
- 3) To be notified of the charges, of the infringement that the events constitute and of the sanctions that, if appropriate, may be imposed, as well as the disciplinary resolution.
- 4) Right to file allegations.
- 5) Right to produce evidence appropriate for the determination of the events.
- 6) Right to be able to act in the proceeding assisted by a Lawyer or the union representatives that they choose.

Article 536.

Offences may be very serious, serious and minor.

A) Very serious offences shall be the following:

1. Failure to fulfil their loyalty to the Constitution in the performance of civil service.
2. Any action that entails discrimination on the grounds of sex, race, religion, language, opinion, place of birth, or residence or any other personal or social condition or circumstance.
3. Abandonment of service.
4. Issuing reports or adopting acts or orders clearly illegal, when this causes serious damage to public interest or to fundamental rights of citizens.
5. Unlawful use of the documentation or information held by them or that they had access to owing to their position or duties.
6. Negligence in the custody of documents that gives rise to its unlawful distribution or knowledge.
7. Repeated breach of the duties inherent to the job or entrusted duties.
8. Use of the powers granted to influence electoral processes of any kind and territory.
9. Breach of court decisions which implementation they had been entrusted with.
10. Serious or repeated failure to obey oral or written orders or instructions from a superior in the exercise of his/her competences, related to duties or tasks inherent to the post of the person concerned, unless they are clearly illegal.
11. Use of the civil servant status to obtain an unlawful benefit for himself or for a third party.
12. The performance of activities declared to be incompatible by Law.
13. Failure to fulfil the abstention duty, when any of the causes contemplated by law concur.
14. Acts that prevent the exercise of fundamental rights, public freedoms and trade union rights.
15. Failure to fulfil the duty to provide basic services during strikes.
16. Sexual harassment.
17. Serious aggression to any person with whom the civil servant relates to during performance of their duties.
18. Arbitrary use of authority that causes serious damage to subordinates or to the service.
19. Actions and omissions that give rise in a final ruling to a declaration of public liability incurred in the performance of their duties under criminal intention or serious negligence.
20. Committing a serious offence after been previously punished for two other serious offences irrevocably acquired, without them having been cancelled or if the relevant recordings have not been cancelled.

A) Serious offences shall be the following:

1. Clear failure to obey orders or instructions from a superior in the exercise of his/her competencies, related to duties or tasks inherent to the post of the person concerned, unless they are clearly illegal.
2. Failure to fulfil court orders which enforcement had been entrusted to them, if this does not entail a very serious offence.
3. Improper use of authority in the performance of their duties if this does not entail a very serious offence.
4. Negligence in the custody of documents, as well as unlawful use thereof or of the information acquired owing to the position held, when these offences are not very serious.
5. The third unjustified time that the civil servants does not go to work in a period of three months.

6. Negligence or unjustified delay in the performance of the duties inherent to the job or tasks entrusted if this does not entail notorious failure to fulfil them.
7. The performance of any activity that must be compatible, pursuant to the provisions contained in Law 53/84, of 26th December, on incompatibilities of employees who render their services to the Public Administrations, without the proper authorisation or with the proper authorisation obtained having lied in the allegations.
8. Lack of consideration for their superiors, employees equal in rank, or subordinates, as well as other professionals or citizens.
9. Cause serious damage to work documents or material, as well as to the premises engaged in rendering the service.
10. Improper use of computer means and materials used in the performance of their duties and breach of instructions provided for their use as well as unlawful use of passwords for the computer systems.
11. Actions or omissions to avoid time control systems or to avoid detection of unjustified breach of the normal working hours.
12. To not promote the requirement of the appropriate disciplinary responsibility for the staff in their office, should they be aware of serious breach by them of the appropriate duties.
13. To obstruct inspection activities.
14. To promote their abstention in a clearly unjustified manner.
15. Repeated breach of work hours with no justification.
16. Committing a minor offence, having been punished before by an irrevocable order for two other minor offences, without them having been cancelled or if the relevant recordings were not cancelled.

C) Minor offences shall be the following:

1. Lack of consideration for their superiors, employees equal in rank, or subordinates, as well as other professionals or citizens, provided it is not a more serious offence.
2. Failure to fulfil the duties inherent to their position or job or negligence in the performance thereof, provided the said behaviour does not constitute a more serious offence.
3. Unjustified delay in the performance of their duties, if this does not entail a more serious offence.
4. Unjustified absence for one day.
5. Failure to fulfil the hours of works without justification, provided this does not constitute a serious offence.

Article 537.

The General Regulation on the Disciplinary Scheme for civil servants who work for the Judiciary will set the criteria for penalty grading which, in any case, shall be based on the following principles:

- 1) Intention.
- 2) Damage caused to the Administration or to citizens.
- 3) Degree of participation in committing the offence.
- 4) Repetition or recurrence.

Article 538.

The penalties that may be imposed on civil servants for the offences committed in the performance of their duties are:

- a) Reprimand.

- b) Suspension from work and discontinuance of salary.
- c) Compulsory transfer outside the municipal district of their job.
- d) Severance from the service.

The penalties mentioned in paragraphs b) and c) may be imposed for committing serious and very serious offences, grading their duration according to the circumstances that occur in the event subject to penalty.

The severance from service penalty may only be imposed for very serious offences.

The suspension from their duties imposed for committing a very serious offence may not exceed six years and may not be less than three years. If it is imposed for a serious offence, it shall not exceed three years.

Civil servants whose penalty involves compulsory transfer shall not be assigned a new post in the original municipal district for three years, if it is imposed for a very serious offence, and for one, if it is for committing a serious offence.

Minor offences may only be reprimanded.

Article 539.

The Ministry of Justice and the bodies chosen by the Autonomous Communities with powers assumed will be competent, in their territories and with respect to the civil servants working there, for the commencement and processing of disciplinary proceedings, as well as for imposing penalties to civil servants of the Corps included in the scope of application of this Volume,

The severance from the service shall be ordered by the Ministry of Justice only.

When the penalty involving compulsory transfer entails transferring from the territory of an Autonomous Community to another with powers assumed, the Ministry of Justice shall be competent to order it, upon the prior favourable report from the Autonomous Community to which territory the penalised civil servant is being transferred.

Article 540.

1. Minor offences shall be barred after two months; serious offences after six months, and very serious offences after one year. The time limit shall be calculated from the date on which the offence was committed.
2. If an event gives rise to commencement of a criminal case, the time limit for legal action shall not start until the conclusion thereof.
3. The time limit for legal action shall be interrupted when the disciplinary proceedings commence and the time limit shall re-start if the file remains suspended for more than six months for reasons not attributable to the civil servant subject to the proceedings.
4. The penalties imposed shall be barred after four months in the case of minor offences; one year in the case of serious offences and two years in the case of very serious offences. The time limit for legal action shall start one day after the date on which the order imposed becomes irrevocable.

VOLUME VII**OF THE DEPARTMENT OF PUBLIC PROSECUTION AND OTHER PERSONS AND INSTITUTIONS THAT CO-OPERATE WITH THE JUDICIARY****TITLE I****Of the Department of Public Prosecution****Article 541.**

1. Notwithstanding the duties entrusted to other bodies, the Department of Public Prosecution is in charge of promoting the action of Justice in defence of legality, the rights of citizens and public interest protected by law, ex-officio, or at the request of the persons concerned, as well as to ensure that the Courts are independent and to seek vis-à-vis the latter the satisfaction of social interest.

2. The Department of Public Prosecution shall be governed by its organisational Statute.

TITLE II**Of Lawyers and *Procuradores*****Article 542.**

1. The term and functions of Lawyer correspond only to those awarded a Degree in Law and in charge of advising and defending parties to all kinds of legal proceedings, or providing legal advice and counselling.

2. In their actions vis-à-vis the Courts: Lawyers practise a free and independent profession; they will be subject to the principle of good faith; they enjoy the rights inherent to the dignity of their duties and they are protected by those rights in their freedom of expression and defence.

3. Lawyers must keep the confidentiality of all facts or news that come to their knowledge through any of the methods used in their professional actions, and they may not be forced to make any declaration on these facts or news.

Article 543.

1. *Procuradores* represent the parties in all kinds of legal proceedings, unless the law permits otherwise.

2. They may issue notifications for the parties to legal proceedings as permitted by law.

3. Paragraph 3 in the previous article shall apply to *Procuradores*.

4. *Procuradores* may be replaced by other *Procuradores* in the performance of their professional practice. They may also be replaced by an authorised official for the acts and in the manner established in the regulations.

Article 544.

1. Before starting their professional practice, Lawyers and *Procuradores* swear or promise to comply with the Constitution and the legal system.

2. Lawyers and *Procuradores* must become members of the Bar Association to be authorised to act vis-à-vis the Courts of Law under the terms contemplated in this Law and the general legislation applicable to professional associations, unless they work for the public Administrations or public institutions depending thereof by way of functions or as an employee.

Article 545.

1. Unless otherwise established by the law, the parties may freely appoint those who represent and defend them from among *procuradores* and lawyers who meet the requirements established in the laws.
2. They shall be appointed ex-officio, according to the provisions contained in the laws, in case this is thus requested or if the party refuses to appoint them when their intervention is compulsory. Ex-officio defence shall be free of charge for whoever can prove that they lack resources to litigate under the terms established in the law.
3. In labour and Social Security proceedings the professional representation may be carried out by a Labour Legislation specialist member of the official professional association, to whom the obligations inherent to their duties shall apply, pursuant to the provisions contained in their professional rules, in this title and in particular in articles 187, 542.3 and 546 of this Law.

Article 546.

1. Public authorities must guarantee the defence and assistance of a lawyer under the terms established in the Constitution and in the Laws.
2. Lawyers and *procuradores* are subject to civil, criminal and disciplinary liability, if appropriate, in the practice of their profession.
3. Disciplinary penalties for their actions before the Courts of Law shall be governed by the provisions contained in this Law and in the procedural laws. The relevant Associations and Councils are competent to declare disciplinary liability for their professional behaviour according to their statutes, which must always fulfil the guarantees of defence during the entire punitive procedure.

TITLE III**Of the Police in the service of the Court****Article 547.**

The duties of the Police in the service of the Court comprises providing aid to the Courts of Law and the Department of Public Prosecution in the investigation of crimes, finding and detaining criminals. This task shall also be carried out, whenever they are required to provide it, by members of the Security Forces and Agencies, whether they depend on the central government or on the autonomous communities or local entities, within the scope of their powers.

Article 548.

1. Police units shall be established and depend functionally on the judicial authorities and the Department of Public Prosecution for the performance of all actions entrusted to them by the former.
2. The law shall establish the organisation of these units and the methods of selection and legal system of their members.

Article 549.

1. The Police in service of the Court shall specifically carry out the following tasks:
 - a) Investigating on the perpetrators and circumstances in criminal acts and detention of the former, subsequently notifying the judicial authority and department of public prosecution, according to the provisions in the laws.
 - b) Providing aid to the judicial authority and department of public prosecution in all those actions performed outside the headquarters and which require the presence of the police.

- c) Material performance of actions that require the use of coercion ordered by the judicial authority or the department of Public Prosecution.
 - d) Guarantee of fulfilment of orders and resolutions issued by the judicial authority or the department of Public Prosecution.
 - e) Any other of the same nature for which its cooperation or aid is required and which was ordered by the judicial authority or the department of Public Prosecution.
2. Under no circumstances may the members of these units be requested to take actions that are not the typical actions of the Police at the service of the Court or derived therefrom.

Article 550.

1. In the criminal investigation tasks, the Police at the Service of the Court will act upon the instruction of the Courts of Law and the Department of Public Prosecution.
2. Civil Servants of Police at the service of the Court who have been entrusted with a specific action or investigation within the powers mentioned in article 547 of this Law, may not be removed or severed until they finish it or, in any case, until the stage of legal proceedings that gave rise to it has come to an end, unless it is upon the authorisation of the competent judge or public prosecution.

TITLE IV

Of the representation and defence of the State and other public entities

Article 551.

1. The representation of the State and its autonomous offices and agencies, as well as the representation and defense of the constitutional bodies, whose internal rules do not establish its own special scheme, shall be carried out by the Legal Representatives of the State integrated into the legal service of the State. Legal Representatives of the State may represent and defend the remaining offices and agencies and public entities, state corporations and state-owned foundations, under the terms contained in Law 52/1997, of 27th November, on Legal Assistance to the State and Public Institutions and implementation provisions. The representation and defence of the managing entities and the General Treasury of Social Security shall be in the hand of the Lawyers of the Social Security Administration, despite the fact that in both cases and according to the provisions contained in the regulations they may be assigned to a Lawyer member of the bar especially appointed for this purpose.
2. The representation and defence of the Cortes Generales (Parliament), the Congress of Deputies, the Senate, the Central Electoral Commission and the bodies and institutions linked or dependent on them shall be in the hands of the Lawyers of the Cortes Generales integrated in the relevant general secretariats.
3. The representation and defence of the autonomous communities and those of the local entities shall be in the hands of the lawyers who provide their services in the legal services of the said public Administrations, unless a lawyer member of the bar is appointed to represent and defend them. The Legal Representatives of the State may represent and defend the autonomous communities and the local entities under the terms contained in Law 52/1997, of 27th November, on Legal Assistance to the State and Public Institutions and its implementing rules.

TITLE V

Of the penalties that may be imposed to those who take part in lawsuits or cases

Article 552.

Lawyers and *procuradores* who take part in lawsuits and cases may be punished if they breach the obligations imposed on them in this Law or the procedural laws, in accordance with the provisions contained in this title, provided the event does not constitute a crime.

Article 553.

Lawyers and *procuradores* may also be punished for their actions vis-à-vis the Courts of Law:

- 1) If in their forensic action they are disrespectful orally, in writing or in action to judges and benches, public prosecutors, lawyers, clerks of the court or any other person who takes part or is related to the procedure.
- 2) If when they are giving their oral allegations they are repeatedly called to order by whoever is chairing the act.
- 3) If they fail to appear before the court for no justified reason after having been duly summoned.
- 4) If they waive for no justified reason the defence or representation in a procedure, within the seven days prior to the trial or hearing.

Article 554.

1. The penalties that may be imposed to the persons referred to in the previous two articles are:

- a) Reprimand.
- b) A fine which maximum amount shall be stipulated in the Criminal Code as a penalty for the offences.

2. The fine will be imposed according to the seriousness, the background information and the circumstances of the events occurred and in any case it will be imposed upon notification to the person concerned.

Article 555.

1. The penalty shall be imposed by the authority before which the proceedings are taking place.
2. They may be imposed in the same proceedings or in a separate procedure. In any case, the secretary shall record the event that gives rise to the corrective action, the allegations of the person involved and the order issued by the judge or by the chamber.

Article 556.

Within five days and against the imposition of the fine, an appeal for a hearing may be filed with the Clerk of the Court, the Judge or the Chamber, who will resolve in the following day. Against this decision or against the decision to impose the penalty, in case the appeal for a hearing has not been used, an appeal for review may be filed, within five days, before the Governing Chamber, which will issue a decision upon the prior report of the Clerk of the Court, of the Judge or the Chamber that imposed the penalty, at the first meeting to be held.

Article 557.

Whenever any of the special penalties contemplated in the procedural laws applied for certain cases, as to the method of imposing the penalty and the resources required, the provisions contained in the previous two articles shall apply.

First additional provision.

1. Within one year, the Government shall send to the Cortes Generales the preliminary draft of the Law on Classification and Functions of Employees of the Judiciary, reform of the guardianship legislation relating to minors, contentious-administrative proceedings, jurisdictional disputes, and of the jury.

2. The Government or, if appropriate, the Autonomous Communities with powers in the matter, shall pass the regulations that require the implementation of this Organic Law, except for the cases when the competence thereof is in the hand of the General Council of the Spanish Judiciary, pursuant to the provisions contained in article 110. When these affect complementary conditions for the exercise of rights and obligations of Judges and Senior Judges, they shall be subject to the same limitations and conditions as those established for the General Council of the Spanish Judiciary.

Second additional provision.

1. The High Courts of Justice shall have their offices in the city mentioned in the relevant Statute of Autonomy.

2. If the city does not appear therein, these shall have their offices in the same city as that where the Regional Appeal Court is in the Autonomous Community at the date on which this Law comes into force.

3. In the Autonomous Communities where there is more than one Regional Appeal Court on the date on which this Law comes into force, a law of the Autonomous Community shall establish where the seat of the High Court of Justice shall be in any of the seats of the said Regional Appeal Court, unless the self-government institutions of the relevant Autonomous Community had already established the seat according to the provisions laid down in their Statute.

4. In the other cases, the High Court of Justice shall have its seat in the capital city of the Autonomous Community.

Third additional provision.

1. In those Autonomous Communities where, on the date this Law comes into force, there is more than one Regional Appeal Court, in accordance with the provision of article 78, a Contentious-Administrative Division and a Labour Division, integrated in the relevant High Court of Justice, shall be created. They shall be composed of and their jurisdiction shall extend to the provinces that are mentioned in the Law of Classification and Functions of Employees of the Judiciary, and its seat shall be in the city where there is, on the date on which this Law comes into force, one of the Regional Appeal Court, provided the High Court of Justice of the Autonomous Community is not located there.

2. In Santa Cruz de Tenerife a Chamber for Social and Labour Matters and a Contentious-Administrative Division integrated in the High Court of Justice of the Canary Islands shall be created. Their jurisdiction will be extended to the province of Santa Cruz de Tenerife and their composition shall be determined in the Law of Classification and Functions of Employees of the Judiciary.

Fourth additional provision.

Within six months of the date on which this Law comes into force, the bench of judges which will decide on jurisdictional disputes raised between the Courts and the Administration will be formed. The Plenary Meetings of the General Council of the Spanish Judiciary and the Council of State shall appoint the relevant members with enough time in advance. Once the said bench of judges at the seat of the Supreme Court has been formed, this will be announced in the "Official Gazette of the Spanish State" so that, one day later, the powers that the Law on Jurisdictional Disputes, of 17th July 1948, grants the Head of State and the Council of Ministers, even in relation to disputes that are being conducted, are assumed.

Fifth additional provision.

1. The appeal for amendment may be filed against all cases of the Penitentiary Surveillance Judge.

2. Appeals may be brought against the Orders of the Penitentiary Surveillance Judge in enforcement of penalties before the court rendering the judgement, except when the orders

were issued in order to decide on a remedy of appeal against an administrative resolution not related to the classification of the convict.

If the convict was serving several sentences, the court or tribunal that imposed the most serious imprisonment shall be competent to resolve on the appeal and if it coincides that several courts or tribunals had imposed the same serious imprisonment, the court or tribunal that imposed the imprisonment the latest shall be competent.

3. The Orders of the Penitentiary Surveillance Judge in relation to the penitentiary scheme and other matters not included in the previous paragraph can be appealable through an appeal or claim, provided they had not been issued to resolve a remedy of appeal against an administrative resolution. The relevant Provincial Court shall hear the appeal or complaint, as the penitentiary is located within its area.

4. The appeal against refusal of leave to appeal mentioned in the previous paragraphs may only be brought against the orders that deny leave to a remedy of appeal.

5. If the order in the remedy of appeal refers to the classification of convicts or granting of conditional release which could give rise to the prisoner's release from prison, provided it deals with offenders convicted for serious crimes, the appeal shall have a suspensive effect which shall prevent the release of the convicted offender until the appeal has been resolved or, if appropriate, until the Provincial Court or the National Court has rendered a judgment on the suspension.

The remedies of appeal mentioned in the previous paragraph shall have priority and will be considered urgent.

6. If the Central Penitentiary Surveillance Court issued the order against which an appeal was brought, in terms of execution of penalties as well as the prison system and other matters, the Criminal Division of the National Court will be competent to hear the remedy of appeal and the appeal against refusal of leave to appeal, provided the judgment was not rendered to decide on a remedy of appeal against an administrative resolution.

6. Against the ruling which determines the maximum execution or rejects the stipulation of the punishment, an appeal in cassation may be brought for infringement of the law before the Criminal Chamber of the Supreme Court, which shall be conducted according to the provisions contained in the Rules of Criminal Procedure.

7. Against the rulings of the Provincial Courts and, if appropriate, of the National court, that decide on the remedies of appeal, which do not allow ordinary cassation, the Department of Public Prosecution and the lawyer of the convicted offender can file the appeal in cassation for the unification of the doctrine before the Criminal Chamber of the Supreme Court, which shall conduct it in accordance with the provisions contained in the Rules of Criminal Procedure for appeal in ordinary cassation, with the characteristics derived from its purpose. The decisions of the Supreme Court to resolve the appeals in cassation for the unification of the doctrine shall under no circumstances affect the legal situations created by the judgments rendered prior to the challenged judgement.

8. The remedy of appeal mentioned in this provision shall be conducted according to the provisions contained in the Code of Criminal Procedure for the abbreviated procedure. The Department of Public Prosecution and the prisoner or the person under conditional release are entitled to bring it. The remedy of appeal shall require the defence of a lawyer and, if a *procurador* is not required, the lawyer shall also have authorisation to represent the person he is defending. In any case, the right to defend prisoners in their court claims must always be guaranteed.

9. In Courts where there is more than one section, through the distribution of cases, one or two sections shall be allotted the appeals applicable to them according to this provision.

Sixth additional provision.

1. The Census Arbitration Courts of the provinces of Barcelona, Tarragona, Lerida and Girona have been eliminated.

2. Competence for conducting and deciding at first instance civil proceedings in matters of census in Catalonia, as regulated by the Law of 31st December 1945, is attributed to the First

Instance Judges competent by reason of the place where the property is located. They shall hear this matter according to the formalities of the declarative action applicable to the amount.

3. Notwithstanding the provisions contained in the previous paragraphs, the Census Arbitration Courts of Catalonia shall carry on conducting the proceedings, brought before this Law comes into force, pending resolution and until their conclusion, including the execution of the judgments.

4. The relevant Provincial Court shall deal with the files of the eliminated Courts.

Seventh additional provision.

When hearing the governmental appeal against the negative classification of a Land Registrar based on rules of Traditional Charters (*fueros*) attributed by the Statutes of Autonomy to the courts located in the Autonomous Community where the Land Registry is located, it will be brought before the competent court. If it was filed with the Directorate General of Registries and Notaries Public, the latter shall send it to the aforesaid court.

Eighth additional provision.

1. Competence to conduct and decide at first instance in civil proceedings related to challenging corporate resolutions established in Royal Legislative Decree 1564/1989, of 22nd December, which approves the consolidated text of the Company's Act; Law 2/1995, of 23rd March, on Limited Liability Companies; Law 27/1999, of 16th July, on Cooperatives, as well as those which deal with the annulment of a registration in any of the Industrial Property manners mentioned in Law 11/1986, of 20th March, on Patents, shall in any case be attributed to mercantile judges competent therefore.

2. Appeals may be brought against their orders before the competent Chamber, whose judgments may, in turn, be subject to an appeal in cassation provided this is possible under the Code of Civil Procedure.

Ninth additional provision.

Article 34 of Law 50/1981, of 30th December, which regulates the Statutes of the Department of Public Prosecution, shall read as follows:

“Categories in the Public Prosecutor Career shall be as follows:

1) Public Prosecutors in a Chamber of the Supreme Court, which is equivalent to Senior Judges of the High Court. Deputy Prosecutor of the Supreme Court which shall be as the Chairman of the Chamber.

2) Prosecutors equivalent to Senior Judges.

3) Lawyers-prosecutors equivalent to Judges”.

Tenth additional provision.

1. The Judicature Act shall determine the vacancies that, in the Ministry of Justice, shall be filled by members of the Judicial Career.

2. The said vacancies shall be filled under a competition on qualifications and achievements, which shall be called and decided by the Ministry of Justice in the manner determined by the regulations.

Eleventh additional provision.

The Government is authorised to update every five years the amounts applicable to the fines mentioned in the text.

Twelfth additional provision.

At the proposal of the Minister of Justice and upon prior opinion of the Council of State, the Government shall approve within a one year time limit a new consolidated text of the Rules of Labour Procedure, which shall contain the modifications derived from legislation subsequent thereto and which shall regulate, clarify and harmonise the consolidated legal texts.

Thirteenth additional provision.

1. The Insurance Arbitration Court has been eliminated. The civil courts will hear all the matters in issue previously attributed to the jurisdiction of the former.
2. Notwithstanding the foregoing, the Insurance Arbitration Court shall expressly resolve within a maximum time limit of one year all matters in issue pending resolution before it, before the coming into force of this organic Law. Once the order has been expressly issued or, in any case, after the aforementioned time limit of one year, which shall be calculated from the coming into force of this organic Law, the parties concerned may bring their claims directly before the appropriate civil courts.

Fourteenth additional provision.

Accessibility for the disabled and older people of sections and services at the court constitutes quality criteria which must be guaranteed by the competent authorities. New court sections and services must fulfil the corpus of legislation in force in terms of promotion of accessibility and elimination of any kind of barriers applicable thereto. The competent administration and authorities, within the sphere of their relevant powers, shall promote programmes to eliminate the barriers of the sections and services which, owing to their old age or other reasons, may present obstacles to users with mobility or communication problems.

First Provisional provision.- Contentious-administrative Chambers of the Supreme Court

1. Until the Judicature Act comes into force, the three existing Contentious-Administrative Chambers in the Supreme Court shall carry on working.
2. The aforesaid Law shall regulate the situation of those who are Presidents of the said Chambers at the date on which it comes into force.

Second provisional provision.- High Courts of Justice.

1. Within one year from the coming into force of this Law, the High Courts of Justice shall be set up and, once they have started their work, the Territorial Courts will disappear.
2. Until the High Courts of Justice start working, the Territorial Courts existing at the date on which this Law comes into force shall remain in place, as well as the Contentious-Administrative Chamber of the Provincial Court of Santa Cruz de Tenerife.
3. Until the High Courts of Justice start working, the competences attributed in this Law to their Civil and Criminal Chambers shall carry on being located at the Chambers of the Supreme Court currently having this competence, unless the Statutes of Autonomy attribute them to the corresponding Territorial Court.
4. The Senior Judges working in the Civil Chambers of the Territorial Courts, when the latter are eliminated, shall render their services to the High Court or relevant Court where they are located, according to the criteria established in the Judicature Act.
5. The Senior Judges of the Contentious-Administrative Chambers of the Territorial Courts, when these have been eliminated, shall be included in the Contentious-Administrative Chambers of the High Courts of Justice.

Third provisional provision.- First Instance Criminal Court and District Courts

1. Within the following year after the enactment of the Law on Classification and functions of the Employees of the Judiciary, the Government, having listened to the General Council of the Spanish Judiciary, shall convert the current District Courts into First Instance Criminal Courts or, if appropriate, Magistrates' Court, according to the following rules:

1) In towns where the civil and the criminal areas are separated, the District Courts shall become First Instance Courts or Examining Courts with the same staff they currently have, except for those only in charge of the Registry Office, which will become First Instance Courts.

2) In the other towns, which First Instance Criminal courts have Senior Judges, the District Courts shall become First Instance Criminal Courts and the regular Judges and the other staff working there shall carry on rendering their services therein.

3) At the District Courts to be transformed according to the previous rule, the regular Judges who by reason of seniority must be promoted during the time limit established for the conversion, shall remain as Senior Judges and keep their number in the promotion ladder in the same Court, without there being any financial effect resulting from the promotion until the conversion has occurred. The promoted person may choose for the promotion to be effective immediately by changing the place of employment.

4) In towns with First Instance Criminal Courts with Judges, the provisions contained in the previous rule shall apply unless, because of little workload the existing District Court or Courts have to be eliminated. In the latter case, the Judge and the Clerk of the Court working in the Court to be eliminated, shall only for once have priority to fill vacancies in the First Instance Criminal Courts of the town, to which they will otherwise be assigned in the manner and with the responsibilities that in general terms the General Council of the Spanish Judiciary establishes, until they occupy another place as the regular employee in their own Corps or Career in the competitions that the regulations call and which they must take, acknowledging their priority to fill vacancies occurred in their province.

If they could not get a place in the first three competitions called, they may be forced to take the existing vacancies.

The staff rendering assistance and collaborating shall be assigned to the Court or First Instance Criminal Courts that are part of the District Court and shall have priority to fill the vacancies produced therein.

5) The District Courts located in town that are not the district court centres shall become First Instance Criminal Courts when required by the service requirements and shall carry on having the Judges and other staff assigned thereto.

The remaining District Courts shall be replaced by the Magistrates' Court and the Judge, Clerk of the Court and staff rendering their services thereto shall, if appropriate, be provisionally assigned and enjoy the priorities established in Rule 4).

6) The towns in which there are currently two or more District Courts and the Registry Office is not unified, the First Instance Court or the First Instance Criminal Court in charge of providing that service shall be determined.

2. Once the Courts have been transformed as mentioned in the previous rule, the following rules shall be followed:

1) The District Court transformed into First Instance Courts or Examining Courts shall continue to hear the civil and criminal cases pending resolution until their conclusion and, from the date of the transformation, shall start to hear civil or criminal cases assigned to them under distribution or under the duty service.

2) The District Courts that have been converted into First Instance Criminal Courts, if there is or there are others of the same kind, shall carry on also hearing civil and criminal proceedings pending resolution until their conclusion and on the date on conversion they shall undertake hearing of civil and criminal matters which, by reason of assignment or duty services apply thereto.

3) Matters pending resolution in the District Courts converted into Magistrates' Courts shall be heard by the appropriate First Instance Criminal Court, except for the matter that pursuant to this Law must be dealt with by the Magistrates' Court.

4) Civil and criminal appeals brought against orders of the District Courts before the date of conversion shall carry on being conducted before the First Instance Criminal Courts. Those filed after the said date shall be conducted before the Provincial Court, pursuant to the provisions contained in this Law.

Fourth provisional provision.- Juvenile Courts

The current Children's Courts shall carry on with their tasks until the Juvenile Courts start working.

Fifth provisional provision.- Entry and promotion Judges and Public Prosecutors.

1. Upon the coming into force of this Law the distinction, in the categories of Judge and Public Prosecution, of the levels of entry and promotion shall not be applicable.
2. For this purpose, those who, pursuant to the provisions contained in Organic law 5/1981, of 16th November, on Integration into the Judicial Career and on the Clerks of the Court, have the category and level of entry judges, shall be situated in order in the promotion ladder of the Judicial Career, after the last one holding the category and level of promotion judge.

Sixth provisional provision.- Integration of promotion and entry Lawyers-Prosecutors

1. Those who, pursuant to Law 50/1981, of 30th December, have the category and level of promotion Lawyer-Prosecutor, as personal rank, and of entry Lawyer-Prosecutor, shall be situated in order in the promotion ladder of the Prosecutor Career, after the last of those who have the category and level of promotion Lawyer-Prosecutor.
2. Entry Lawyers-Prosecutors who had exercised the right of option acknowledged in the Second provisional Provision of the said Law and who, for the purpose of personal category, have the promotion level, shall recover, from the coming into force of this Law, all the rights waived by them, being entitled, whenever appropriate, to be promoted to the second category for seniority, to carry on in the same category, waiving to all effect the promotion. The same right shall apply for entry Lawyers-Prosecutors who come from the former District Corps of Public Prosecutors.
3. The three years of effective service in the third category required in article 37, first, two, of the Organic Statute of the Department of Public Prosecution, to gain access to the second category through the appropriate selective tests, shall be considered to refer to all entry Lawyers-Prosecutors, with or without the personal promotion level, to the services rendered in the category from the date on which this Law comes into force.

Seventh provisional provision.- Judiciary School

1. Upon the coming into force of this Law, the Judiciary School shall change its name into Centre for Judicial Studies. The staff, assets and economic means and resources shall be transferred to the Centre for Judicial Studies.
2. The Director, the Head of Studies and the Registrar of the Judicial School shall carry on with their tasks until the regular posts are taken in the management bodies of the Centre for Judicial Studies.
3. The courses being held shall be undertaken by the Centre for Judicial Studies, which shall also carry out subsequent ones until its regulation has been issued.

Eighth provisional provision.- Situations of Judges and Senior Judges

1. Judges and Senior Judges who are in a situation of special leave or supernumerary and, according to this Law, are entitled to leave on personal grounds, must request to be reinstated to active employment within the time limit of three months from the coming into force of the Judicature Act. If they do not make a petition within the aforesaid time limit they shall be automatically in the situation of leave on personal grounds for personal interest, with effect from the coming into force of this Law.
2. Those who are in a situation of supernumerary or leave on personal grounds and who should be in special services, in the last case, shall be considered in the applicable situation from the coming into force of this Law, including as effective employment in the Career the time during which they were on leave for personal reasons, applying the special services, according to this Law.

3. When the situation of special leave is over, unless they are assigned a place, they shall be assigned on a provisional basis to the Chambers of the Supreme Court, to those of the High Courts of Justice or of the National Court (*Audiencia*), or of the Courts of the town in which they were employed when no longer in active service chosen by the relevant Government Chamber, according to the category and court where they rendered their services.

4. This assignment shall be maintained until the first vacancy in their category occurs and, if appropriate, the turn in the Supreme Court, High Courts of Justice, Superior Courts (*Audiencias*) or Courts where they were assigned, and shall take place outside the competition and on a preferential basis.

5. The time limit of ten years mentioned in paragraph 3 of article 357 shall start to be calculated for Judges and Senior Judges who were in situation of leave on personal grounds on the date on which this Law comes into force, from this latter date.

Ninth provisional provision.- Secondment

Judges and Senior Judges who, when this Law comes into force, were on secondment at the court, the Ministry of Justice, or the Ministry of Labour and Social Security, or any other ministerial department or administrative agency, shall cease in the said secondment and shall be reinstated in their judicial place of employment within a time limit of two months after the coming into force of this Law.

Tenth provisional provision.- Disciplinary proceedings

1. The disciplinary proceedings commenced upon entry into force of this Law shall be adapted to the provisions contained therein on competence, procedure and appeals.

2. As for the definition of the facts or behaviours and the imposition of penalties, the principle of irretroactivity shall apply, unless what this Law establishes is more favourable for the person subject to disciplinary proceedings, who can decide this.

Eleventh provisional provision.- Presidents of the Chamber of the Supreme Court.

The current Presidents of the Chamber of the Supreme Court shall carry on performing their duties until, after the creation of the General Council of the Spanish Judiciary, pursuant to the provisions contained in this Law, they are ratified or replaced by it within a time limit of three months.

Twelfth provisional provision.- Recruitment in the Supreme Court:

1. Vacancies occurred in the Chambers of the Supreme Court from the coming into force of this Law shall be offered according to the provisions contained therein, applying the following rules on a provisional basis:

1) Vacancies occurred owing to termination of Senior Judges not coming from the Judicial Career shall be filled by Lawyers and other renowned Jurists.

2) Vacancies left by those coming from the Judicial Career shall be filled in the following manner:

a) The first one, with Senior Judges who rendered ten years of service in specialised agencies in the jurisdictional area of the Chamber involved.

b) The second one, with Senior Judges who meet the general requirements for gaining access to the Supreme Court.

c) The third one, following the same turn as the first one, and the fourth one, following the same turn as the second one.

2. Notwithstanding the foregoing, and in relation to the Contentious-Administrative Chamber, the second and fourth turns shall be filled in the manner established in article 344 a) in this Law.

3. The rules above shall always apply in a manner that does not infringe the proportion established in article 344 in this Law.

4. When the composition contemplated in this Law has been reached, the general recruitment rules contemplated therein shall apply.

Thirteenth provisional provision.- Presidents of the Territorial and Provincial Courts

1. The current Presidents of the Territorial and Provincial Courts shall carry on performing their duties until, after the creation of the General Council of the Spanish Judiciary, pursuant to the provisions contained in this Law, they are ratified or replaced by it within a time limit of three months.

2. After the formation of the High Courts of Justice, those who until then had held the position of Presidents of the Territorial Court shall be severed from their positions and the Presidents thereof shall be appointed.

3. The Presidents of the Provincial and Territorial Courts who are severed from their position shall be assigned to the Court or the High Court, respectively, and shall be assigned to fill the first vacancy occurred in the Court or High Court of Justice to which they are assigned, if they could not get another place, at their request, before.

However, the Presidents of the Territorial Courts of Madrid and Barcelona, if they were severed from their positions, shall be assigned to the Supreme Court.

Fourteenth provisional provision.- Chief Administrative Judges (*Jueces Decanos*)

The current Chief Administrative Judges (*Decanos*) of the First Instance Courts in the towns where there are ten or more, shall carry on performing their duties until the relevant Board of Judges does the selection as mentioned in article 166 in this Law, within the time limit of two months. If they were not elected or appointed for the position, they shall be assigned, if appropriate, to the High Court of the relevant capital city until they can be the regular holder of the position.

Fifteenth provisional provision.- Senior Judges for contentious-administrative competitive examination.

1. Senior Judges who entered owing to contentious-administrative competitive examination shall be entitled to be promoted according to the turn specified in article 344 a) and shall maintain the reservation in their favour of two of every five posts as Senior Judge of the Contentious-administrative Division of the Supreme Court. Notwithstanding the foregoing, the General Council of the Spanish Judiciary shall be free to promote, when there is no Senior Judge of this kind that meets the legal requirements, or if none of them has enough qualifications and achievements for the promotion. Those who are promoted based on the previous paragraph shall be considered to be included, for the purpose of the proportion in the composition of the Chamber, in the turn of article 344 a) in this Law.

2. The Senior Judges mentioned in the previous paragraph shall maintain all the rights acknowledged in the First Final Provision of Law 17/1980, of 24th April, which establishes the remuneration scheme for civil servants of the Judiciary.

3. They will have priority over the other members of the Judicial Career for the recruitment of expert posts in the Contentious-Administrative Chambers and posts in the expert Courts in the said jurisdictional area under the terms contemplated in articles 329-2 and 330-2.

4. Contentious-administrative Senior Judges by competitive examination coming from the Prosecutor Career shall be therein in situation of leave on personal grounds.

Sixteenth provisional provision.- Acting Senior Judges

Until the expiration of the judicial year in which this Law comes into force the current acting Senior Judges shall continue performing their duties. Within the time limit of three months after its coming into force, the Governing Chambers shall make a new proposal of acting Senior Judges for the following year, fulfilling the requirements established therein.

Seventeenth provisional provision.- Corps of Labour Judges.

1. From the coming into force of this Law there will be no competition for entry into the Corps of Labour Judges.

2. The current Labour Judges coming from the Judicial Career shall be integrated into it with the category they have therein and shall occupy the post in the promotion ladder applicable to them, hereinafter being governed for the offer of places of employment and promotion of categories by the provisions contained in this Law.

Those who belong to the Corps of Labour Judges as mentioned in the previous paragraph shall be considered specialists for the purposes of the provisions contained in article 344, a), in the Law.

3. Those who come from the Prosecutor Career shall be integrated into the Judicial Career and will be placed in the promotion ladder in the applicable Bis number according to their seniority therein, in which they will remain on leave of personal grounds.

4. For the purposes of priority to fill the vacancies as specialists in the Labour Divisions and Courts established in articles 329 and 330 in this Law, the current Labour Judges shall have priority over the other members of the Judicial Career.

5. The current promotion ladder in the Corps of Labour Judges shall be maintained as an analogous scale of that in the Judicial Career and shall keep the same elements of placement, category and seniority. This scale shall determine among them the order of preference for the recruitment in the Labour Divisions and Courts.

Eighteenth provisional provision.- Central Labour Court

The Central Labour Court shall be eliminated on the date on which the Labour Divisions of the National Court and of the Higher Courts of Justice start to work, which shall be established in a law that will determine the functions of the Courts. The following rules shall apply:

1) The Presidents and Judges of the Central Court who, based on the provisions contained in the previous Provisional Provision, are integrated into the Judicial Career, shall be part of the Labour Chamber of the National Court or of the High Court of Justice of Madrid, according to the requirements in the Law on the Classification and Functions of the Employees of the Judiciary, and if the number is greater than that established, there shall be a preferential order, according to the longer seniority in the position, And the remaining ones shall be assigned to the Labour Chamber of the High Court of Justice of Madrid until they can be the holders of the posts. The said Chamber shall hear all the matters pending resolution in the Central Court, with the exception of those of the labour division of the National Court.

2) The Clerks of the Court and Governing Chamber of of the Central labour Court shall be part of the Labour Chamebr of the National Court or of the High Court of Justice of Madrid and, if the number is greater than that established, there shall be a preferential order, according to the longer seniority in the position, and the remaining ones shall be assigned to the Labour Chameber of the High Court of Justice of Madrid until they can be the holders of the posts.

Nineteenth provisional provision.- Industrial Tribunals

1. Until the Labour Courts start to work the current Industrial Tribunals shall carry on performing their duties.

2. While the Industrial Tribunals are working the vacancies shall be filled in the manner established in article 329 in this Law.

Twentieth provisional provision.- Staff rendering services to the labour area.

1. The administrative, assistant and subordinate staff who, when this Law comes into force, are rendering services at the Industrial Tribunals or the Central Labour Court, shall carry on rendering them in those bodies and from the moment they have been formed, at the Labour Court and Labour Chamber of the National Court, subject to the scheme applicable at present until the regulations on staff working for the Judiciary have been enacted, which shall lay down the rules for their integration into the various Corps thereof.

2. The incompatibility scheme described in article 489 shall apply to the staff mentioned in this provision from the moment this Law comes into force.

Twenty-first provisional provision.- Clerks of the Court in the Labour Jurisdiction

Upon the date on which the Judicature Act comes into force, the Corps of Clerks of the Labour Jurisdiction shall be integrated into the Corps of Clerks of the Court according to the following rules:

- 1) Clerks of the Court of the Industrial Tribunals, with categories A and B, shall be integrated into the second category of the Corps of Clerks of the Court, being in the promotion ladder starting with those who rendered services for the longest period of time in the source Corps.
- 2) Clerks of the Court that come from the Labour Jurisdiction shall have priority to occupy the posts of the Labour Courts and the Labour Chambers of the National Court or High Courts of Justice
- 3) When the Labour Chambers of the High Courts of Justice are structured and start operating, the Clerks of the Labour Jurisdiction who are currently in Category A shall have absolute priority, over those in B, to work therein.

Twenty-second provisional provision.- Clerks of the Court .

1. Upon the coming into force of this Law the distinction, in the third categories of the Corps of Clerks of the Court, of the levels of entry and promotion.
2. For this purpose, in accordance with the provisions contained in Organic Law 5/1981, of 16th November, those who had third category entry level shall be situated, according to the proper order, after the last one of those who have third category promotion level, in the promotion ladder of the Corps of Clerks of the Court.
3. Clerks of the Court who, under the provisions contained in the sixth rule of the sixth article of Organic Law 5/1981, of 16th November, and because they hold a post with a lower category than the one that they should have had, would have acquired the highest category to all effects, except for the financial aspect, shall keep the same situation until they occupy a post in their category.
4. Civil Servants who have a Degree in Law and who come from the Corps declared to be eliminated of Officers of the Chamber of the Supreme Court and High Courts, Officers of the Contentious-administrative Courts and technical scale of the Administrative Corps of the Courts, who are in situation of active employment upon entry into force of this Law, shall be integrated into the Corps of Clerks of the Court in the third category, after the last one that appears therein, as per seniority in the service.
5. Clerks of the Court working in the Prosecutor's Office shall be assigned on a provisional basis upon entry into force of this Law to the Courts and High Courts located in the same town where they are working until they can hold a post in ordinary competitions for recruitment in which they shall have priority, only once, to fill in the vacancies occurred therein.

Twenty-third provisional provision.- Remuneration of the Clerks of the Court.

Clerks of the Court Court only remunerated by fees or under the mixed remuneration system by salary and fees shall only receive upon entry into force of this Law the salaries and extras according to their category and place of employment, established in general terms for Clerks of the Court, plus a bonus of thirty per cent of the salary that applies to them, without any possibility of receiving any kind of fees, and shall be entitled to receive allowances in the manner and amount established for civil servants, considering as payable services those rendered in the Corps from date of entry.

Twenty-fourth provisional provision.- Clerks of the Court at the Magistrates' Courts in Municipal districts with more than seven thousand inhabitants

1. From the date on which this Law comes into force no more competitive examinations will be called for entry into the Corps of Clerks of the Court at the Magistrates' Courts in Municipal Districts with more than seven thousand inhabitants, which elimination is declared.
2. Civil servants in the Corps of Clerks of the Court at the Magistrates' Courts in Municipal Districts with more than seven thousand inhabitants to be eliminated who, upon entry into force of this Law, have a Degree in Law, shall be integrated into the third category of Clerks of the Court, filling by following strict order of seniority in effective employment, through specific competition for this Corps, the vacancies existing at that moment in the aforesaid category.
3. The Clerks' office of the Magistrates' Courts in towns with more than seven thousand inhabitants, so long as there are members of the Corps as mentioned in this Provision who meet the legal requirements to fill them in, shall make the offer, when a vacancy is produced, through a competitive examination taken by them.
4. If a post held by a Clerk of the Corps of Clerks at the Magistrates' Courts in Municipal Districts with more than seven thousand inhabitants is declared not to have been filled as there is no applicant, the post shall be reserved for recruitment according to the provisions contained in article 481 in this Law.
5. Civil servants of Corps of Clerks at the Magistrates' Courts in Municipal Districts with more than seven thousand inhabitants declared to be eliminated with more than five years of effective employment who, from the date on which this Law comes into force, are awarded a Degree in Law, may take part in the competitive examinations mentioned in article 478.

Twenty-fifth provisional provision.- Lawyers of the Ministry of Justice

Members of the Judicial Career who are under a situation of leave, as they are in active employment or in special services in the Special Expert Corps of Lawyers of the Ministry of Justice currently integrated into the Higher Corps of Lawyers representing the State, if when they entered active employment they did not receive any post as mentioned in the tenth Additional Provision, they shall be assigned to the High Court of Justice or the Provincial Court of Madrid until they can hold a post as regular employees.

Twenty-sixth provisional provision.- Of the civil servants in the current Children's Courts

1. The scale of single juvenile Judges is declared to be eliminated. Its members may carry on holding posts in the new Juvenile Court of the place where they had been employed. In the performance of their court duties the legal statute of the Judicial Career shall apply to them.
2. Those who belong to the scale of Clerks of Children's Courts shall be integrated into the Corps of Clerks of the Court occupying a bis number according to their seniority in the source scale.

Twenty-seventh provisional provision.- Social Danger and Rehabilitation Courts.

1. The current Social Danger and Rehabilitation Courts which have the tasks of penitentiary surveillance assigned, as well as those that have been assigned these on an exclusive basis, shall carry on performing the said duties as Penitentiary Surveillance Courts until the Judicature Act establishes the latter ones. Upon entry into force of this Law, the said Courts shall be called Penitentiary Surveillance Courts and they shall perform the duties that as such apply thereto, notwithstanding anything established in this respect in the Judicature Act.
2. The duties in terms of social danger and rehabilitation shall be assigned to the Examining Courts. The Examining Courts where the alleged danger has appeared mainly, shall be competent.
3. Until something else is available, the current Social Danger and Rehabilitation Chamber of the National Court shall carry on hearing the remedies of appeal and appeals against refusal of leave to appeal against the orders announced by the Examining Courts in the matters mentioned in the previous paragraph.
4. Matters pending resolution shall be resolved by the Court mentioned in the former legislation.

Twenty-eighth provisional provision.- Provisional retirement scheme

Members of the other Corps of the Judiciary who, upon entry into force of the Law, are over sixty-two and younger than sixty-five, shall retire when half of the time they need to reach sixty-eight years of age has elapsed. Those who on the said date have reached sixty-five shall retire two years after its coming into force, unless they turn seventy before that.

Twenty-ninth provisional provision.

The procedures mentioned in the eighth additional Provision commenced before entry into force of this Law shall carry on their conduct according to the rules in force when they were commenced.

Thirtieth provisional provision.

Until the Law on Classification and Functions of Employees of the Judiciary lays down otherwise, the cities of Ceuta and Melilla shall keep the judicial assignment they currently have.

Thirty-first provisional provision.

Within a time limit of three months from entry into force of the Judicature Act and according to the provisions contained in this Law, Magistrates shall be appointed by dismissing those who held the positions until then.

Thirty-second provisional provision.

Within a time limit of one month after the announcement of this Organic Law in the "Official Gazette of the Spanish State" all members of the Judicial Career and the staff rendering services to the Judiciary who have not yet done so, shall take an oath or make a commitment as described in articles 318 and 460 in this Law respectively.

Thirty-third provisional provision.

The exams and competitions to enter into the Corps mentioned in this Law for internal promotion or for recruitment to fill in a vacancy, called at the date on which it comes into force, shall be resolved by the authority in charge of resolving it according to the previous legislation.

Thirty-fourth provisional provision.

Until the Judicature Act has been passed the existing courts shall carry on with the organisation and powers held until the date on which this Law comes into force.

Thirty-fifth provisional provision.

The provision contained in article 307 in this Organic Law on the Judiciary, in relation to the period of supervised practice, as deputy Judge, of the selection course on theory and practice, shall be six months for all candidates to entry into the Judicial Career who have passed or pass the entrance examinations already called, and for those who pass the tests in the following call after entry into force of this provisional provision.

Thirty-sixth provisional provision.

Until 31st December 2003 retirement according to age for Judges and Senior Judges as described in article 386.1 is established at seventy-two years old. Until 31st December 2004, retirement according to age for Judges and Senior Judges as described in article 386.1 is established at seventy-one years old.

Thirty-seventh provisional provision.

Until 31st December 2003, people who, having met the requirements established in article 201, have not turned seventy-five years of age, may be proposed as assistant Senior Judges.

Thirty-eighth provisional provision.

For a period of time not exceeding four years, the General Council of the Spanish Judiciary may, according to the general planning and organisation needs of the Judicial Career and adaptation thereof to the judicature act, exempt the members of the Judicial Career from fulfilling the requirement mentioned in article 311.2 of Organic Law 6/1985, of 1st July, of the Judiciary, if they have been involved in effective employment as judges for three years to gain access to the category of Senior Judges in the cases contemplated in the previous paragraph in section 1 of the aforementioned article.

Repealing provision.

1. The following laws and provision have been repealed:

- Provisional Law on the organisation of the Judiciary of 15th September 1870.
- Additional Law to the Organic Law of the Judiciary of 14th October 1882.
- Organic Law of Industrial Tribunals of 17th October 1940.
- Basic Law of Municipal Justice of 19th July 1944.
- Organic Law of the National Corps of Forensic Doctors of 17th July 1947.
- Law on the Contentious-Administrative Jurisdiction of 27th December 1956, where it regulates the said jurisdiction and the structure of its authorities.
- Law 11/1966, of 18th March, on organic organisation of the Civil Servants of the Judiciary.
- Law 33/1966, of 31st May, on Organic Modification of the Corps of the Labour Jurisdiction.
- The provisions contained in Law 42/1974, of 28th November, Basic Organic Law on the Judiciary, declared to be effective by Royal Decree-Law 24/1976, of 26th November, which extends the time limit for the distribution in sections in Law 42/1974, of 28th November, Basic Organic Law on the Judiciary.
- Royal Decree-Law 1/1977, of 4th January, which creates the National Criminal Court.
- Royal Decree 2104/1977, of 29th July, which approves the partial distribution in sections of the Basic Organic Law on the Judiciary, of 28th November 1974, on District Courts and other details.
- Organic Law 1/1980, of 10th January, on the General Council of the Spanish Judiciary.
- The first Additional Provision in Law 17/1980, of 24th April, which establishes the remuneration scheme for civil servants working for the Judiciary.
- Organic Law 5/1981, of 16th November, on the integration of the Judicial Career and the Clerks of the Judiciary.
- Organic Law 12/1983, of 16th November, on modification of powers of the National Criminal Court.
- Organic Law 4/1984, of 30th April, which amends Organic Law 5/1981, of 16th November.
- Any other law and provision that contradict the provisions contemplated in this Organic Law.

2. Nevertheless, Organic Law 6/1984, of 24th May, which regulates the *habeas corpus* procedures, remains in force.

Final provision.

This Organic Law shall come into force one day after its announcement in the «Official Gazette of the Spanish State».

Thus,

I order all Spaniards, individuals as well as authorities, to safeguard and make others safeguard this Organic Law.

Zaruela Palace, Madrid, on this 1st July 1985.-

JUAN CARLOS R. -

The President of the Government,

FELIPE GONZALEZ MARQUEZ.