



CONSEJO GENERAL DEL PODER JUDICIAL

SPANISH COUNCIL GENERAL OF THE JUDICIARY

**THE SPANISH JUDICIARY ACT [LEY ORGÁNICA DEL PODER
JUDICIAL]**

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Spanish Public General Act (Ley Orgánica) 6/1985, July 1st: THE JUDICIARY ACT

PREAMBLE The Judiciary and the exercise of judicial functions

Article 1.

Justice is vested in the citizens and administered in the name of the King by the Magistrates and Judges who comprise the Judiciary, independent, unmovable, liable and subject solely to the Constitution and the Laws of the Land.

Article 2

1. The exercise of judicial functions, adjudging and enforcing the judgments delivered is vested exclusively in the Courts and Tribunals foreseen by law and in international treaties.
2. Courts and Tribunals will not perform any other functions than those contemplated in the preceding paragraph, they may also act as Registrars, and perform other duties entrusted to them by the law in order to protect any right.

Article 3.

1. There is a sole jurisdiction exercised by the Courts and Tribunals foreseen in this Act, notwithstanding any other judicial faculties recognised by the Constitution and vested in other bodies.
2. The competency of Military Jurisdiction is solely limited to military justice affairs with regard to those charges considered as military offences pursuant to the Code of Military Justice and in the case of national emergency situations following a declaration thereof in the terms established in the Act that governs it, and notwithstanding the provisions of Article 9, paragraph (2) hereunder.

Article 4.

Jurisdiction of the Courts extends to all persons, matters and all the Spanish territory as provided in the Spanish Constitution and the Statutes.

Article 5.

1. The Constitution is the supreme law of the legal system and binds all Courts and Tribunals which will interpret the law and regulations according to constitutional provisions and principles in accordance with the construction given to them by the resolutions delivered by the Spanish Constitutional Court in any proceedings.
2. When a Court considers that in a suit a statute which validity is essential in order to reach a decision in the course of said proceedings may be contrary to the Constitution, it will refer the matter to the Constitutional Court pursuant to the terms of its Public General Act.

3. In the event that it is not possible to accommodate the conflicting provision to the constitutional framework, the Court will submit a plea of unconstitutionality.

4. In all cases in which according to the law, a cassation appeal applies, the grounds for such appeal will be the breach of a constitutional provision. In this case, the Supreme Court will hear it in cassation, regardless of the nature of the suit, the applicable law and the jurisdictional division involved.

Article 6.

Courts and Tribunals shall not apply any regulations which conflict with Constitutional provisions, with the law or breach the hierarchy of the legal system.

Article 7.

1. The rights and freedoms recognised in Title I, Chapter II of the Constitution bind all Judges and Courts, and are guaranteed by the protection dispensed by the Courts.

2. In particular, the rights set out in Article 53(2) of the Constitution will be recognised in any event pursuant to their stated constitutional content and no judicial resolution may in any way restrict or impair them, or suspend the application of their contents.

3. Judges and Courts will protect legitimate rights and interests of individuals and groups to avoid defencelessness of citizens. In order to uphold the rights of groups, associations, entities and bodies which have been affected or are legally authorised to defend and foster such rights may appear before the Courts.

Article 8.

Courts are vested with the supervision of regulations issued by administrative bodies ensuring likewise that governmental agencies comply with the law and that their proceedings are justified by the ends they pursue.

Article 9.

1. Courts and Tribunals will exercise their jurisdiction solely in those cases in which their jurisdiction has been contemplated in this Act or in any other statute.

2. Civil Courts and Tribunals, notwithstanding their competence over civil matters will also hear all issues which are not heard by a specific jurisdiction.

Within the civil division, the military jurisdiction is competent for the prevention of probate and intestate proceedings related to members of the Armed Forces in the time of war, who die in battle or at sea, limited to the basic assistance for the transfer of the body of the deceased, the inventory of his assets and belongings and the preliminary protection of his property, informing the competent civil courts of the actions taken at all times.

3. Criminal Division Courts are competent to hear criminal proceedings and suits except those vested in the military jurisdiction.

4. Administrative Division Courts will hear all matters related to suits arising from actions carried out by Public subject to administrative law, to legal provisions ranking under statutes and Orders in Council as provided under Article 82(6) of the Spanish Constitution, all the above as established by the Act that governs this Division. They will also hear appeals on failure to act by the Public Administration and against material actions by the latter on the basis of *fait accompli* acts. They are also competent to hear claim amounts suits in connection with the Public Administration and its civil servants, regardless of the nature of the activity or the type of relationship involved. If the damage has also been caused by private individuals, the plaintiff shall also file any legal remedy against them before this civil jurisdiction.

They will also hear actions for liability when the aggrieved party files a suit against the insurer of the Public Administration and the latter jointly.

This jurisdiction is also competent to hear any amounts claim suits addressed against public or private individuals or entities indirectly responsible for them.

5. Industrial Courts will hear all matters arising from labour issues including individual and group conflicts as well as claims against the Social Security or the State when the industrial legislation vests in them any liability for these matters.

6. Prorogation of jurisdiction is inadmissible. The Courts will examine *ex officio* their lack of jurisdiction and will resolve on the matter in a hearing to which the parties of the suit and the Public Prosecutor will have been notified. In any case, such resolution will state the grounds whereby the Court considers it is not competent to hear the matter and will indicate which jurisdiction is deemed competent.

Article 10.

1. To the sole purposes of pre-trial issues, each jurisdictional division may hear matters which are not vested in such jurisdiction exclusively.

2. Notwithstanding the foregoing, a pre-trial criminal issue which is essential in order to issue an adequate judgment or which has a direct bearing on the matter to be adjudged on, will entail the stay of proceedings until it has been decided on by the criminal judicial bodies which are competent to hear it, except as otherwise provided by Law.

Article 11

1. The *bona fide* principle will be observed in all legal proceedings. Evidence obtained directly or indirectly in breach of fundamental rights or freedoms will not be admissible.

2. The Courts and Tribunals will dismiss any pleadings, interlocutory appeals or pleas which are filed in clear breach of legal rights or entail a fraud of substantive or adjective law.

3. Courts and Tribunals pursuant to the principle of legal protection upheld by Article 24 of the Constitution must always reach a decision on the matters submitted to them and may only dismiss them on formal technicalities when such flaws may not be remedied or have not been remedied according to the procedure foreseen in the law.

Article 12.

1. In the exercise of their jurisdictional duties, Magistrates and Judges are independent with regard to any and all other judicial and governance bodies of the Judiciary.
2. Neither the Judges nor the Courts may amend the application or construction of the legal system made by lower courts in the judicial hierarchy except when they are hearing a matter on appeal in the terms foreseen by law.
3. No court or judge, nor their governing bodies or the General Council of the Judiciary may issue general or specific instructions to the lower courts or officers on the application or construction of the legal system which they carry out in their own jurisdiction.

Article 13.

All citizens are obliged to uphold the independence of Magistrates and Judges.

Article 14.

1. Magistrates or Judges who see their independence hindered or threatened will report it to the General Council of the Judiciary, notifying these circumstances to the competent Court or Tribunal in order to initiate appropriate legal proceedings, notwithstanding they may conduct on their own any essential inquiries to ensure that justice and the rule of law prevails.
2. The Public Prosecutor, either ex officio or at the request of the persons mentioned above will initiate the corresponding actions to ensure that judicial independence is preserved.

Article 15.

Magistrates and Judges may only be removed, suspended, transferred or retire, following any of the circumstances and subject to the guarantees established by law.

Article 16.

1. Magistrates and Judges will be held civilly and criminally liable in the manner and subject to the procedure foreseen in the laws and any disciplinary measures applied to them will have to comply with this Act.
2. Honour Courts are forbidden in the judicial system.

Article 17.

1. All persons, public and private entities are obliged to provide in the matter contemplated in this law the cooperation requested by Judges and Courts in the course of the proceedings and in order to enforce the judgments delivered, except as otherwise foreseen in the Constitution and in the laws, and notwithstanding reimbursement of expenses and payment of remuneration applicable according to the law.
2. Public Administrations, Authorities and officers, Corporations, all public and private entities and private individuals will respect and when applicable comply with the judgments and other judicial decisions rendered which have become final or have to be enforced pursuant to the law.

Article 18.

1. Judicial resolutions may only be defeated pursuant to the appeals foreseen in the laws.
2. Judgments will be enforced in their own terms. If it becomes impossible to enforce a judicial decision, the Judge of the Court will adopt appropriate measures to ensure that the enforcement order may be carried out and will determine in any event the compensation payable for that part of the enforcement which may not be fully carried out. Only in the event of public or social interest declared by the Government, condemnation of rights recognised against the public administration in a final ruling prior to its enforcement may take place. In that case, the competent Judge or the Court for the enforcement of such ruling may determine by means of an interlocutory writ the amount of the indemnification payable.
3. The provisions of this Article must be understood notwithstanding royal pardon which is vested in the King of Spain as provided by the Constitution and the laws.

Article 19

1. Spanish nationals may exercise public complaint in the cases and subject to the procedure established by law.
2. Likewise they may take part in the administration of justice by means of the Jury system according to the procedure and with regard to the criminal proceedings contemplated by Law; they may also take part in custom and common law Courts and in all other cases foreseen hereunder.
3. The “Tribunal de las Aguas de la Vega de Valencia” [Court for Irrigation Disputes of the Region of Valencia] is considered to be a court of custom and common law.
4. The “Consejo de Buenos Hombres de Murcia” [The Lay Counsellors Council of the Region of Murcia] is considered to be a court of custom and common law.

Article 20

1. Justice will be free in the cases foreseen by law.
2. A legal aid system will be set up to ensure that the provisions foreseen in articles 24 and 119 of the Spanish Constitution for individuals who do not have sufficient resources to litigate are effectively carried out.
3. No guarantee or bail may be demanded for the exercise of public complaint which will always be free.

VOLUME I SCOPE AND LIMITS OF JURISDICTION, ORGANIZATION AND STAFFING OF COURTS AND TRIBUNALS

PART I. Scope and Limits of Jurisdiction

Article 21.

1. Spanish Courts and Tribunals will hear all suits arising in the Spanish territory between Spanish nationals, between foreigners and Spanish nationals and between foreigners subject to the provisions of this Law and the international treaties and conventions which Spain is party to.

2. Solely immunity of suit or immunity of enforcement foreseen in International Public Laws are excepted from the above.

Article 22.

In the civil jurisdiction, Spanish Courts and Tribunals will be competent:

1) On an exclusive basis, in the case of rights in rem and lease of real estate property located in Spain; in the incorporation, validity, voiding and winding-up of companies or moral persons domiciled in the Spanish territory, and with regard to the decisions and agreements passed by their bodies; concerning the validity or voidance of entries made in a Spanish register; regarding patent entries or validity and any other rights which may be deposited or registered when their application or their registration or deposit has been made in Spain; recognition and enforcement of foreign judgments or arbitration awards in the territory of Spain.

2) Generally, when the parties have agreed to refer to the Spanish Courts and Tribunals in an express or implied manner, or when the defendant's residence is Spain.

3) In default of the foregoing rules, and with regard to a Court Notice of Missing Persons or Death when the missing person's last domicile was in Spain; likewise with regard to the personal and financial settlements between spouses, annulment of marriage, separation and divorce when both spouses are residents in Spain at the time of the suit or when the plaintiff is Spanish and his usual place of residence is Spain or when both spouses are Spanish nationals regardless of their place of residence provided that they file a joint claim or one of them files a suit with the consent of the other spouse; filiation and parental relations when the child's usual place of residence is Spain at the time of the proceedings or when the plaintiff is Spain or his usual place of residence is Spain; with regard to adoption, when the adoptive parents or adoptee are Spanish or their usual place of residence is Spain; regarding alimony when the obligor's usual place of residence is Spain; in contractual obligations when they have been created or must be performed in Spain; in extra contractual obligations when tort or damage sustained were caused in Spain or when the usual place of residence of the tortfeasor or the aggrieved party is Spain; legal proceedings on movables and chattel when these are located in the Spanish territory at the time in which the suit is filed; probate suits when the deceased last's residence was Spain or owned real estate property in Spain;

4) Consumers' contracts when the purchaser's domicile is in the territory of Spain in the event of a hire purchase or loan facilities to acquire such goods; and in the case of any other provision of

services agreement or related to chattel when prior to the execution of the contract a customised offer or advertising effort had been carried out in the territory of Spain or if the consumer has carried out in the territory of Spain certain acts required for the execution of the contract; insurance contracts when the insurer and the insured party are domiciled in Spain; lawsuits arising from the exploitation of a branch, agency or business premises when these are located in the Spanish territory. Insolvency proceedings are subject to the provisions of the law governing them.

5) In the case of cautionary or interim measures adopted with regard to persons or assets located in the Spanish territory and which must be enforced in Spain.

Article 23

1. The Spanish jurisdiction is competent in criminal proceedings arising from offences and misdemeanours perpetrated in the Spanish territory or in Spanish aircraft or ships notwithstanding the provisions of international treaties to which Spain may be party to.

2) It will also hear those cases which are considered to be a crime under Spanish law in spite of having been perpetrated outside the Spanish territory provided that the material offenders are Spanish or foreign individuals who acquired the Spanish nationality after having perpetrated the offence and the following circumstances concur:

a) The crime as such is not punishable in the country where it was perpetrated except if such requirement is waived by virtue of an international treaty or a resolution of an International Agency to which Spain belongs or if such requirement is not necessary.

b) The aggrieved party or the Public Prosecutor have filed a complaint before the Spanish Courts.

c) The perpetrator has not been absolved, pardoned or convicted abroad, and if convicted he has not served time abroad. If part of his conviction has been served abroad it will be taken into account in order to adjust the remainder of his sentence.

3) The Spanish jurisdiction is competent to hear offences perpetrated by Spanish nationals or foreigners abroad when according to Spanish criminal law they fall under any of the following crimes:

a) High treason, treason against peace or the sovereignty of Spain.

b) Treason against the Crown, the Consort, the Heir Apparent or the Regent.

c) Mutiny and Sedition.

d) Forgery of the Royal Seal or signature, the Seal of the State or the signatures of the Ministers or official or public seals.

e) Counterfeiting and passing Spanish currency.

f) Any counterfeiting or forgery activities which may damage the credit or the interests of the State, and smuggling or dispatching forged goods.

g) Any terrorist attacks against Spanish authorities or public officers.

h) Crimes perpetrated abroad in the discharge of their duties by Spanish public servants resident abroad and any offences against the Spanish Public Administration.

i) Exchange rate offences.

4) Likewise the Spanish Criminal Courts are competent to hear any offences perpetrated by Spanish or foreign nationals outside the Spanish territory which may be considered according to the Spanish Criminal Code as:

- a) Genocide
- b) Terrorism
- c) Piracy or collision of ships.
- d) Forgery of foreign currency
- e) Prostitution offences or corruption of minors or disabled individuals.
- f) Trafficking in illegal substances, drugs and narcotics
- g) Those which refer to female sexual mutilation provided that the perpetrators are located in Spain.
- h) Any other offences which according to international treaties or conventions must be prosecuted in Spain.

5) In the events contemplated in paragraphs 3) and 4) of this Article, the provisions of Article 2) paragraph d) of this Article will control.

Article 24.

The Spanish jurisdiction of the contentious-administrative courts will be competent in any event when the suit refers to general provisions or acts by any of the Spanish Public Administrations. It will also hear all matters arising from Spanish public authorities in the terms provided by the laws.

Article 25.

In labour matters, the Spanish Courts and Tribunals will be competent in the following cases:

- 1) Rights and obligations stemming from employment contracts when the services have been rendered in Spain or when the contract has been executed in the Spanish territory; when the defendant is domiciled in the territory of Spain or an agency, branch or representative office in Spain; when the worker and the employer are Spanish nationals regardless of the place where the services were rendered or the employment contract was executed; and additionally in the even of sea-workers if prior to the contract an offer was made in Spain to a Spanish worker;
- 2) Compliance with the law of collective wage agreements executed in Spain and any claims arising from labour disputes that take place in the territory of Spain:
- 3) Social Security claims against Spanish companies or entities which have a registered address, branch, office or any other representation in Spain.

PART II Staffing and Territorial Organization of the Courts

CHAPTER I Courts and Tribunals

Article 26.

The exercise of jurisdictional faculties is vested in the following Courts and Tribunals:

Judges of Peace (Juzgados de Paz), First Instance and Examining Courts, Commercial Courts, Domestic Violence Courts, Criminal Courts, Contentious Administrative, Industrial, Juvenile, Penitentiary Supervision Courts, High Courts of Justice, *Audiencia Nacional* (National Court), Supreme Court of Justice

Article 27.

1. If a Division of the Court has one or more Sections they will be referred to by ordinal numbers.
2. In cities in which one or more courts exist of the same jurisdictional division and of the same rank, they will be designated by cardinal numbers.

Article 28.

In each Division or Section of the Courts, there will be one or more Registrar Offices, but only one in each Court.

Article 29.

1. The staffing of the Courts will be established by law. It will be revised at least once every five years following a report issued by the Council General of the Judiciary to adapt it to new requirements.
2. Review of staffing requirements may be requested by the Autonomous Communities with competencies in the Administration of Justice in order to suit to the specific needs of their territory.

CHAPTER II Territorial division of the Judiciary

Article 30.

The Spanish State is divided for judicial purposes in councils, districts, provinces and Autonomous Communities.

Article 31.

The local council refers to the administrative borough which bears the same name.

Article 32.

1. A district is a territorial division consisting in one or more coterminous councils belonging to the same province.
2. Districts may be modified in view, when applicable, of the number of suits, characteristics of the population, systems of communication and the region.
3. A district may have the same territorial limits as the province.

Article 33.

The borders of a province will agree with the territorial limits of the administrative division which bears the same name.

Article 34.

The territorial jurisdiction of the High Courts of Justice will be the area of the Autonomous Community.

Article 35.

1. The judicial district will determine the original jurisdiction of the Courts is established by Law.
2. To that purpose, the Autonomous Communities will take part in defining the judicial districts within their territory submitting a proposal to the Government following a request by the latter setting out their judicial districts.
3. The Ministry of Justice in view of the proposals made by the Autonomous Communities will prepare a draft which will be reported on by the Council General of the Judiciary within the term of two months.
4. Once the aforementioned report has been issued, the Government will approve the appropriate bill including the proposals made by the Autonomous Communities and the report by the Council General of the Judiciary and shall send it to the Parliament for its subsequent enactment.

Article 36.

The creation of branches and Courts is vested in the Government when it does not entail any amendment of the judicial district, provided however that the Autonomous Community affected by this measure has been heard and also the Council General of the Judiciary.

Article 37.

1. The Ministry of Justice or the competent body within the Autonomous Community with judicial competencies shall provide the Courts and Tribunals with the necessary resources to perform their functions in a fully independent and efficient manner
2. To that purpose, the Council General of the Judiciary will prepare an itemised report explaining the resources required on a yearly basis and submit it to the Ministry of Justice or to the competent body within the Autonomous Community.

PART III Conflicts of Jurisdiction and Competency Disputes

CHAPTER I Jurisdictional Conflicts

Article 38.

1. Jurisdictional conflicts between Courts and Tribunals of any nature will be settled by a panel chaired by the President of the Supreme Court, and by five other members, two of them will be Judges from the Contentious Administrative Division of the Supreme Court designated in a Plenary Session of the Council General of the Judiciary and the other three members will be Permanent Privy Counsellors of State. The Secretary to this Panel will be the Secretary of the Board of Governance of the Supreme Court.

2. The Presiding Judge will always have the casting vote in the event of a draw.

Article 39.

1. Jurisdictional conflicts between Courts and Tribunals of any nature belonging to the ordinary jurisdiction and the military courts will be solved by the Conflicts of Jurisdiction Division chaired by the President of the Supreme Court and comprising two Senior Judges of the Supreme Court from the division that gave rise to the dispute and two senior judges of the military court all of them appointed at a Plenary Session of the Council General of the Judiciary. The Secretary to the Governance Board of the Supreme Court will act as Secretary thereat.

2. The Presiding Judge will always have the casting vote in the event of a draw.

Article 40

The members of the decision-making panels contemplated in the two preceding sections will be renewed on an annual basis.

Article 41

The filing, legal proceedings and resolution of jurisdictional conflicts will comply with statutory provisions thereon.

Competency Disputes

Article 42.

Competency disputes between courts and tribunals of different jurisdictional divisions within the Judiciary will be solved by a Special Division of the Supreme Court chaired by its President and two Judges, one from each jurisdictional division in conflict annually appointed by the Board of

Governance. The Secretary to the Board of Governance of the Supreme Court will also act as the Secretary of this special division.

Article 43.

Competency disputes in which a Judge stands down or passes the case on may originate either ex officio or at the request of the parties or of the Public Prosecutor insofar the suit has not concluded with a final judgment, except if the conflict refers to enforcement of the judgment rendered.

Article 44.

The criminal jurisdiction shall always prevail. No Court or Tribunal may lodge a writ of prohibition questioning the competency of any body within the criminal division.

Article 45.

Competence disputes will record the grounds leading to the dispute, the legal provisions on which such claim is based, whereafter the Court or Tribunal once it has heard the parties and the Public Prosecutor for a joint period of ten days, will resolve by means of a writ whether it shall pass on the suit or else request the jurisdictional body currently hearing the matter to refrain from doing so.

Article 46.

1. The writ of prohibition will include a testimony of the writ issued by the requesting Court or Tribunal, pleadings of the parties and of the Public Prosecutor, including any other particulars considered appropriate to justify its cognizance of the suit.
2. The recipient Court will have a ten day period to hear the parties and the Public Prosecutor jointly after which it will issue a writ affirming or restraining its competency.

Article 47.

1. If the Court does not comply with the prohibition request, it will notify it to the requesting Court, and both Courts will refer the proceedings to the Conflicts' Division, retaining each of them testimony of the documents submitted as may be required to comply with the provisions of Article 48(2).
2. The Conflicts' Division, after having heard the Public Prosecution within the term of ten days, will render a decision on the dispute which is final and not subject to further appeal. The writ so issued will provide a final solution to the dispute of competency.

Article 48.

1. From the moment in which a writ waiving or affirming the jurisdiction of the Court has been issued, and the Judge or Court in question has been notified of this, the legal proceedings arising from such dispute will be suspended.
2. Notwithstanding the foregoing, stay of proceedings will not include preliminary or cautionary measures in progress regardless of whatever jurisdictional divisions may be conflict provided that they are urgent or necessary and in the event that they are not adopted, the damage caused would be

impossible or very difficult to repair. Where applicable, the Courts and Tribunals will adopt the necessary guarantees to protect the rights and interests of the parties involved as well as public interest.

Article 49.

Judgments delivered in the course of competency disputes are not subject to any ordinary or extraordinary appeal.

Article 50

1. The final decision rendered in which the aforementioned jurisdictional division to which Article 6, paragraph (9) above refers to considers that it declines its jurisdiction may be appealed within the term of ten days on the grounds of default of jurisdiction.

2. The appeal will be lodged before the Court that issued the decision which after having heard the parties of the suit will submit the proceedings to the Conflicts' Division.

3. The Division will claim from the Court or Tribunal which waived its jurisdiction to submit the proceedings and having heard the Public Prosecutor within the term of ten days it will issue a writ in the following ten days.

CHAPTER III Competency disputes

Article 51.

1. Competency disputes between Courts and Tribunals of the same jurisdictional order will be solved by the immediately highest court in the hierarchy pursuant to the provisions set out in procedural laws.

2. The decision of a Court to waive its competence must include notice of the Court or body which is deemed competent.

Article 52.

Competency issues may not be invoked between Courts or Tribunals which are mutually subordinate of each other. The higher Judge or Court will render a decision in any event affirming its competence and without further appeal after having heard the parties and the Public Prosecutor within the joint term of ten days. Following which either the proceedings conducted by the lower Court or Judge will be submitted to the higher court or else these will be referred to the lower court.

TITLE IV Composition and powers of jurisdictional bodies

CHAPTER I. THE SUPREME COURT

Article 53.

The Supreme Court sits in the city of Madrid and is the highest Court of all jurisdictions, except with regard to constitutional guarantees. Its scope of jurisdiction encompasses all the territory of Spain and no other Court may be referred to as Supreme

Article 54.

The Supreme Court will consist in a President, the Chief Justices of the Divisions and Associate Senior Judges as provided by law for each of the divisions, and when applicable, Sections which may exist.

Article 55.

The Supreme Court comprises the following divisions:

First Division: Civil jurisdiction

Second Division. Criminal jurisdiction

Third Division: Contentious-Administrative jurisdiction

Fourth Division: Labour jurisdiction

Fifth Division: Military jurisdiction governed by its Statute and in default of the latter by this Act and by the common provisions applicable to the other Divisions of the Supreme Court.

Article 56.

The Civil Division of the Supreme Court will hear:

- 1) Cassation, revision and other extraordinary appeals arising from civil suits as provided by Law.
- 2) Liability in tort arising from actions carried out in office by the President of Spain, the Speaker of both Houses, the President of the Supreme Court, the President of the Council General of the Judiciary, the President of the Constitutional Court, members of the Cabinet, Members of Parliament, Standing Members of the Council General of the Judiciary, Sitting Members of the Constitutional Court and the Supreme Court, the Presiding Judge of the Audiencia Nacional and of any of its Divisions, Chief Justices of High Courts of Justice, the Crown Prosecutor, Supreme Court Prosecutors, the President and the Permanent Members of the Court of the Exchequer, the President and Permanent Members of the Privy Council of State, the Ombudsman, the President and Counsellors of Autonomous Communities when so established in their Regional Statute.
- 3) Liability in tort filed against Judges of the Crown Court (Audiencia Nacional) and of the High Court of Justice for actions carried out in the discharge of their duties.
- 4) *Petitions to enforce foreign judgments unless as otherwise provided in international treaties, they are to be heard by another Court or Tribunal.*

Article 57.

1. The Criminal Division of the Supreme Court will hear the following matters:

- 1) Cassation, revision and other extraordinary appeals arising from criminal suits as provided by Law.
- 2) Criminal inquiries and proceedings from actions perpetrated while in office by the President of Spain, the Speaker of both Houses, the President of the Supreme Court, the President of the Council

General of the Judiciary, the President of the Constitutional Court, members of the Cabinet, Members of Parliament, Standing Members of the Council General of the Judiciary, Sitting Members of the Constitutional Court and the Supreme Court, the Chief Justice of the Audiencia Nacional and of any of its Divisions, Chief Justices of High Courts of Justice, the Crown Prosecutor, Supreme Court Prosecutors, the President and the Permanent Members of the Court of the Exchequer, the President and Permanent Members of the Privy Council of State, the Ombudsman, the President and Counsellors of Autonomous Communities when so established in their Regional Statute.

3) Criminal inquiries and proceedings referred to Judges of the Crown Court (Audiencia Nacional) and of the High Court of Justice.

2) With regard to the proceedings contemplated in indents 1) and 2) of the preceding Article, a reporter Judge will be designated amongst the Judges of that Division pursuant to an agreed system of rotation. The Reporter will not be part of the panel which hears the suit.

Article 58.

The Contentious Administrative Division of the Supreme Court will hear the following suits:

One. In first instance, all administrative appeals against decisions passed by the Cabinet, the Standing Committees of the Government and by the Council General of the Judiciary and against actions and legal provisions issued by the competent bodies of Parliament, the Constitutional Court, the Court of the Exchequer and the Ombudsman, subject to the terms and matters contemplated by Law and likewise any other appeals which exceptionally may be vested by law in this Division. Revision and cassation appeals in the terms established by the laws.

Article 59.

The Labour Division of the Supreme Court will hear cassation and revision appeals and other extraordinary appeals vested in this Division by law.

Article 60.

1. Each of the Divisions of the Supreme Court will also be competent to hear any plea challenging any of the Judges who sit in any of the Divisions and in competency disputes between Courts or Tribunals of the same jurisdiction which have no other Court as their immediate superior in rank.

Article 61.

1. A Division consisting in the President of the Supreme Court, the Chief Justices of each Division and the most senior and junior judge of each division will hear:

1) Revision appeals against rulings given in first instance by the Contentious-Administrative Division of this Court.

2) Pleas challenging the President of the Supreme Court, the Chief Justices of any of the Divisions, or two or more judges of a Division. In this case, those judges who have been challenged will be replaced by another officers.

3) Liability in tort suits addressed against the Chief Justices of any Division or against the majority of judges of a Division for actions carried out while performing their duties.

- 4) Committal and hearing stage of suits filed against the Chief Justices of any Division or against the majority of Judges of a Division when all or most of these judges are being tried.
- 5) Suits filed for judicial errors when the matter has been heard by a Supreme Court Division.
- 6) Banning and subsequent dissolution of a political party in the terms foreseen in Spanish Public General Act (Ley Orgánica) 6/2002, June 27th – The Political Parties Act.

2. With regard to the proceedings contemplated in indent 4) of the preceding Article, a reporter Judge will be designated amongst the Judges of that Division pursuant to an agreed system of rotation. The Reporter will not be part of the panel which hears the suit.

3) A Division made up by the President of the Supreme Court, the Chief Justice of the Contentious Administrative Division and five other Judges of that Division, two of them chosen among the most senior judges and three of them among the most junior judges will hear cassation appeals for a Practice Statement when conflicting views exist between judgments given in the same instance by different Sections of that same Division.

CHAPTER II The NATIONAL COURT (AUDIENCIA NACIONAL)

Article 62.

The seat of the Audiencia Nacional is Madrid and its jurisdiction encompasses all the territory of Spain.

Article 63.

1. The Audiencia Nacional is made up of a Chief Justice, the Chief Justices of each of its Divisions and the judges established by law for each of its Divisions and Sections.

2. The Chief Justice of the Audiencia Nacional will have the same treatment as the President of the Supreme Court and by virtue of his appointment he is the president of all its Divisions.

Article 64.

1. The Audiencia Nacional comprises the following divisions

Appellate Division

Criminal Division

Contentious-Administrative Division

Labour Division

2. In view of the number of suits, two or more Sections may be created within the same Division.

Article 64 bis.

1. The Appellate Court of the Audiencia Nacional will hear appeals of this nature as provided by Law against sentences given by the Criminal Division.

2. When in view of the nature and on-going work load warrants it, the judges sitting in this Division, following a favourable resolution from the Board of Governance may be ascribed by the Council General of the Judiciary either on a full or part-time basis, without this entailing any increase in their remuneration to another Division. In order to qualify for this transfer, seniority in

the judicial career, specialisation and experience of the candidate judges will be considered, and where possible, their own personal preferences.

Article 65.

The Criminal Division of the Audiencia Nacional will hear the following matters:

a) Offences against the Crown, the Consort, the Heir Apparent, the High Institutions of the Nation and its form of government.

b) Counterfeit of legal tender, currency and exchange rate offences.

c) Fraud and illegal schemes or arrangements to alter the price of commodities which have or may have a serious impact on commerce, the domestic economy or material financial losses to a considerable number of individuals in the territory of more than one Provincial Court.

d) Trafficking in drugs or illegal substances, fraud in food products, prescription drugs or medical products when these offences are perpetrated by criminal organizations or rackets and their effects are noticeable in the territory of more than one Provincial Court.

e) Offences perpetrated outside the Spanish territory, when pursuant to International treaties or conventions, they are to be heard by the Spanish Courts.

In any event, the jurisdiction of the Criminal Division of the Audiencia Nacional extends to all accessory offences perpetrated in connection with any of the above.

2) Criminal proceedings instituted abroad, enforcement of sentences issued by foreign courts, or serving a term imposed by a foreign court when by virtue of an international treaty, Spain must continue the criminal proceedings initiated abroad or the enforcement of a foreign sentence or compliance with a conviction or any other measure restricting the freedom of the offender.

3) All matters in connection with waiver of criminal jurisdiction arising from international treaties which Spain may be party to.

4) Matters related to the enforcement of European arrest warrant and surrender procedure in all cases in which Spain must comply with an extradition request, regardless of the place of residence or of arrest of the offender involved in the criminal proceedings.

5) Appeals established by law against sentences and other decisions given by the Central Criminal Courts, the Central Examining Courts and the Central Juvenile Court.

6) Appeals against resolutions issued by the Central Penitentiary Courts.

7) Any other issues vested in the Audiencia Nacional by law.

Article 66

The Contentious Administrative Division of the Audiencia Nacional will hear the following matters:

a) In sole instance, administrative appeals against legal provisions and acts by Cabinet Ministers and State Secretaries which cognizance the law has not vested in the Central Contentious-Administrative Courts.

b) In sole instance, administrative appeals against decisions by the Supervisory Committee of Terrorism Financing Activities. It will also hear of any envisaged extension of the terms submitted by the aforementioned Supervisory Committee applicable to the measures foreseen in Article 1 and 2 of Spanish Act 12/2003 - Prevention and Blockage of Terrorist Activities.

c) Cognizance of appeals against resolutions given by the Central Contentious-Administrative Courts when so established by law.

d) Appeals which are not heard in the High Courts of Justice regarding Agreements entered into by the Public Authorities and resolutions from the Central Comptroller Court and any other

e) Conflicts of jurisdiction between the Central Contentious Administrative Courts and other exceptional appeals vested in this judicial body by law.

Article 67

The Labour Division of the National Court will hear in sole instance:

- 1) Special proceedings to challenge collective agreements when their scope of application exceeds the territory of an Autonomous Community.
- 2) Proceedings referred to labour disputes when the decision rendered will have effects beyond the territory of an Autonomous Community.

Article 68

1. Each division of the National Court will hear any motions for challenging the judges which are part of any of its divisions.
2. To these purposes, the challenged judges will not sit at that Division.

Article 69

A division made up of the Chief Justice of the National Court, the Chief Justices of each Division and the most senior and junior judge of each division or the deputising judges for these will hear any incidents for the recusation of the Chief Justice, the Chief Justices of each Division or of two Judges who sit in the same division.

CHAPTER III The High Courts of Justice

Article 70.

The High Court of Justice of the Autonomous Community will be the highest judicial body in the territory of each Community notwithstanding the jurisdiction of the Supreme Court.

Article 71.

Each High Court of Justice will be referred to with the name of the respective Autonomous Community and its jurisdiction will extend to all its territory.

Article 72.

1. The High Court of Justice is divided into the following divisions: Civil, Criminal, Contentious-Administrative and Labour Divisions
2. Its functional structure consists in a Chief Justice who is also the Chief Justice of the Civil and Criminal Divisions and will have the rank of a Supreme Court Justice while in office, of the

Division Chief Justices and Judges established by law for each division and where applicable, of the Sections into which each Division may be divided.

Article 73.

1. The Civil and Criminal Division of the High Court of Justice will hear as a Civil Division:
 - a) Of the cassation appeal established by Law against resolutions passed by civil judicial bodies located in the territory of the Autonomous Community provided that the grounds for appeal are based on a breach of civil, territorial or special law for that Community and provided further that the Statute of the Autonomous Community has vested in this judicial body the aforementioned jurisdiction.
 - b) Extraordinary review appeal established by Law against decisions given by courts of civil jurisdiction which have a seat in the territory of the Autonomous Community based on a breach of civil, territorial or special law for that Community and provided further that the Statute of the Autonomous Community has vested in this judicial body the aforementioned jurisdiction.

2. This Division will also hear:
 - a) In sole instance, civil liability suits for actions carried out in the discharge of office by the Chief Justice, members of the Government and the of the Parliament of that Autonomous Community when cognizance of these issues has not been vested in the Supreme Court by the Statute of the Autonomous Community.
 - b) In sole instance, civil liability suits for actions perpetrated in the discharge of office by all or the majority of judges of a Provincial Court or of any of its divisions.
 - c) Conflicts of jurisdiction between civil Courts which have their seat in the territory of the Autonomous Community when there is no other higher court to hear this matter.

3. As a Criminal Division, it will hear:
 - a) Criminal proceedings which are to be heard at the High Courts of Justice as provided by the Statute of the Autonomous Community.
 - b) Preliminary inquiries and decisions on criminal proceedings against judges, magistrates, Public Prosecution officers for any offences or infractions perpetrated by them in the discharge of their duties in the Autonomous Community when jurisdiction over these matters is not vested in the Supreme Court.
 - c) It will hear appeals against sentences given in first instance by Provincial Courts and any other appeals vested in them by Statute.
 - d) Decisions on conflicts of jurisdiction between criminal courts which have their seat in the territory of the Autonomous Community when there is no higher court that may hear this matter.

4. In order to conduct the proceedings mentioned in paragraphs a) and b) above, an examining judge will be designated amongst the judges of the division who will not seat with the other judges to hear the suit.

5. It is also competent to hear conflicts of jurisdiction between Juvenile Courts belonging to different provinces of the Autonomous Community.

6. In view of the number of matters to be heard, one or more sections within a Division may be created and even a Criminal Division with its specific venue in those cities which are already the seat of one or more divisions of the High Court of Justice to the sole purposes of hearing on appeal the matters listed in section 3, paragraph c) of this Article and other appeals vested by Statute in the High Court of Justice. Appointments to these Sections will be made following a proposal of the

Council General of the Judiciary considering those judges who have been the previous ten years sitting at criminal courts and by seniority.

Article 74.

1. Contentious administrative divisions of the High Courts of Justice will also hear in sole instance appeals against:

- a) Acts by the Local Councils and the administrative bodies of the Autonomous Communities when their cognizance is not vested in the Contentious Administrative Courts.
- b) General provisions issued by the Autonomous Communities and Local Councils.
- c) Acts and general provisions of the governing bodies of the legislative bodies of the Autonomous Communities, and comparable institutions to the Exchequer Courts and the Ombudsman referred to personnel, administration and financial issues.
- d) Actions and decisions by the Regional Commissioners for Tax (Tribunales Económico-Administrativos) against which no further administrative appeal or remedy is available.
- e) Decisions given on review by the Central Commissioners for Tax Tribunal referred to taxes assigned to Autonomous Communities.
- f) Acts and provisions by the Provincial Election Boards and Autonomous Communities, and administrative electorate appeals on the designation of appointed officers and on the election and appointment of Chief Justices of Local Councils under the terms of electorate law.
- g) Agreements between different public administrations with jurisdiction in the territory of the Autonomous Community.
- h) Banning or submitting amendments to meetings foreseen in the Public General Act of Association.
- i) Acts and resolutions passed by State public administrations with jurisdiction over all the territory of Spain ranking below a Cabinet Minister or a State Secretary in matters concerning personnel, special properties and condemnation proceedings.
- j) Any and all other administrative proceedings not vested expressly in other bodies of this jurisdictional body.

2. On appeal they are competent to hear appeals against resolutions and writs passed by contentious administrative courts and complaints.

3. They are also competent to hear pursuant to the terms of this Act any review appeals against final decisions rendered by contentious-administrative courts.

4. They will also hear conflicts of jurisdiction between contentious administrative courts located in the territory of the Autonomous Community.

5. They will hear the cassation appeal for a practice statement in the cases foreseen in the Statute of Contentious Administrative Jurisdiction (Ley reguladora de la Jurisdicción Contencioso-Administrativa).

6. Cassation appeals based on public interest foreseen in the Statute of Contentious Administrative Jurisdiction.

Article 75.

The Labour Division of the High Court of Justice will hear:

- 1) In sole instance all legal proceedings established by statute which refer to the interests of workers and employers which exceed the jurisdiction of Labour Courts but do not go beyond the territory of the Autonomous Community.
- 2) Appeals established by Law against resolutions given by Labour Courts, review appeals and other appeals foreseen by Law against decisions rendered by commercial courts of the Autonomous Community concerning labour matters and which refer to interlocutory insolvency proceedings on the same subject matter.
- 3) Conflicts of jurisdiction between Labour Courts of the same Autonomous Community.

Article 76.

Each division of the High Court of Justice will hear any recusations filed against their Judges when cognizance of this matter is not vested in the division mentioned in the following article.

Article 77.

1. A Division integrated by the Chief Justice of the High Court of Justice, the Chief Justices of each Division and the most junior judge of each of them will hear any recusation incidents against the Chief Justice, the Chief Justices of each Division or the Chief Justices of the Provincial Courts located in the territory of the Autonomous Community or concerning recusation of two or more judges of a Provincial Court Division.

2. The challenged judge may not sit at that Division and he will be duly replaced by a deputy judge in the terms of this Act.

Article 78.

When the number of cases sourcing from different provinces or if certain circumstances warrant it, contentious administrative or labour divisions with limited jurisdiction over one or several provinces of the Autonomous Community may be created, and their seat will be at the capital of said Community. These Divisions will be made up of a Chief Justice and will be completed when applicable by judges from the Provincial Court where it has its seat.

Article 79.

The law on organization and staffing of the Courts may reduce the number of judges in a given High Court of Justice considering the number of cases effectively being handled and in that case, the Divisions will be restructured in terms of a Chief Justice and by the Chief Justices of divisions and judges determined by that law.

CHAPTER IV Provincial Courts

Article 80.

1. Provincial Courts will have their seat in the capital of the province which name they take and their jurisdiction will encompass all the territory of that province notwithstanding article 82 (4) hereunder.

2. A number of Provincial Court divisions may be created outside the capital of the province which will have jurisdiction over one or more judicial districts.

3. In any event, following a report by the corresponding Board of Governance, the Council General of the Judiciary may agree that certain matters should be vested exclusively in a certain division of the Provincial Court which will have venue over all the territory even if one or more of its divisions are located outside its effective seat. This resolution will be published in the State Gazette.

Article 81.

1. Provincial Courts shall consist in one Chief Justice and two or more judges. They may also be divided into two or more divisions with the same structure in which case the Chief Justice of the Provincial Court will preside one of these divisions as determined by him at the beginning of his mandate.

2. When in view of the few cases heard by the Provincial Court it become advisable to downsize its staffing, it may consist in one or two judges, including the Chief Justice. In this case, the Provincial Court will be seconded for preliminary inquiries and adjudgment proceedings by the number of judges required from the High Court of Justice. To these purposes, the Board of Government will determine a roster for each judicial year.

3. Likewise, in view of the interests of justice administration, Divisions in a Provincial Audience may be made up of four judges.

4. Appointment of judges to different sections will be made on a functional basis when these sections do not belong to different divisions or specialised areas. If this were the case, functional allocation may only be made between the same divisions or areas of specialisation.

Article 82.

1. Provincial Courts will hear with regard to criminal proceedings:

1) Of any offences unless a specific statute has vested them in the Criminal Courts or in other Courts foreseen in this Act.

2) Appeals established by law against sentences passed by Examining and Criminal Courts of a province.

3) Appeals established by law against resolutions of the Juvenile Courts which have their seat in that province and conflicts of jurisdiction between them.

4) In civil proceedings, Provincial Courts will hear appeals established by law against resolutions passed in first instance by commercial courts except those given in the course of insolvency proceedings which refer to labour issues, which requires that one of its sections should be specialised in this area according to article 98 of this Public General Act. Likewise, the section or sections of the Provincial Court of Alicante which are specialised by subject matter in the terms established by the aforementioned legal provision will hear also and in second instance on an exclusive basis all appeals mentioned in article 110 of EC Council Regulation 40/1994 of December 20th, 1994, - the Community Trademark and Council Regulation 6/2002 of the European Union of December 12th, 2001 on drawings and community models. In the exercise of this competence, their jurisdiction encompasses all the territory of Spain and to these purposes solely they will be designated as Community Trademark Courts.

Provincial Courts will also hear any appeals established by law against resolutions given in first instance in civil proceedings by Domestic Violence Courts in that province. In order to facilitate the hearing of these appeals, and in view of the number of cases, one or several of its sections may become specialised in this area in the terms foreseen in article 98 hereunder.

5. Provincial Courts will also have the following competencies:

a) Civil and criminal conflicts of jurisdiction between the Courts of the Province when there is no other higher court competent to hear them.

b) Recusation of its judges, when this incident has not been vested in a Special Division created to that purpose in the High Courts of Justice.

Article 83.

1. Jury trials will be conducted in the jurisdiction of the Provincial Court or other Courts in the manner established by Law.

2. The members and faculties of the Jury will be determined by a specific Public General Act on Jury Trials (Ley Orgánica del Tribunal del Jurado).

CHAPTER V First Instance and Examining Courts, Commercial Courts, Criminal Courts, Domestic Violence Courts, Contentious-Administrative Courts, Labour Courts, Parole Courts and Juvenile Courts.

Article 84.

In each judicial district there will be one or more First Instance and Examining Courts which will have their seat in the capital of that district and their jurisdiction shall refer to all that territory. They will be referred to by the name of the council where they have their seat.

Article 85.

First Instance Courts in the civil jurisdiction will hear the following matters:

1. In first instance all suits which are not vested in other Courts or Tribunals by law.
2. Voluntary appearance before the Courts as provided by Law.
3. Appeals foreseen by Law against resolutions of the Judges of Peace of their judicial district.
4. Conflicts of jurisdiction in civil matters between Judges of Peace
5. Requests for the recognition and enforcement of foreign rulings and other foreign judicial and arbitration decisions unless as otherwise provided in treaties and international laws, they are to be handled by other Courts.

Article 86.

1. The Register of Births, Marriages and Deaths will be supervised by the First Instance magistrates and by delegation by the Judges of Peace as provided by law notwithstanding statutory provisions for other Registers of Births, Marriages and Deaths as may be applicable.
2. The Judiciary Organization and Staffing Act will determine the cities in which one or more First Instance judges will perform solely registrar duties, and in those cities in which there is more than one first instance court, the statute will determine which of these will be vested with registrar functions.

Article 86 bis.

1. Generally, in each province, with jurisdiction over all its territory and seat in its capital, one or several commercial courts will be in place.
2. Commercial courts may be created in cities other than the capital of the province when the size of population, the existence of trade or industrial areas or economic considerations make it advisable, establishing in each case the scope of their jurisdiction.
3. Commercial courts may encompass one or more provinces of the same Autonomous Community except as otherwise provided in section 4 of this Article.
4. Commercial Courts of Alicante which are specialised by subject matter in the terms established by the aforementioned legal provision will hear also and in first instance on an exclusive basis all appeals mentioned in article 110 of EC Council Regulation 40/1994 of December 20th, 1994, - the Community Trademark and Council Regulation 6/2002 of the European Union of December 12th, 2001 on drawings and community models. In the exercise of this competence, their jurisdiction encompasses all the territory of Spain and to these purposes solely they will be designated as Community Trademark Courts.

Article 86 ter.

1. Commercial courts will hear all matters in connection with insolvency proceedings pursuant to the terms of the Insolvency Acts. In any event, the jurisdiction of the insolvency judge will be exclusive and exclude any other one with regard to the following:
 - 1ST) Civil amounts claim suits which are filed against the assets of the insolvent party except when they are exercised in connection with capacity, filiation, marriage and minors proceedings contemplated in Part I of Volume IV of the Spanish Civil Procedure Code. The judge will hear with the same scope of competence the action foreseen in section 17.1 of the Insolvency Act.
 - 2ND) Industrial actions which intend to extinguish, amend or suspend a number of employment contracts in which the insolvency party is the employer party, including suspension or resolution of

senior employment contracts, provided further that when those measures entail an amendment of the terms set out in the collective wage agreement applicable to these matters, the workers' representatives will have to agree to this.

3RD) Any enforcement of rights or property of the insolvent party regardless of the body or authority which ordered it..

4TH) Any cautionary measure which refers to the assets of the insolvent party, except for those actions adopted in the course of civil proceedings which are excluded of its jurisdiction as per subsection 1 hereunder.

5TH) Any measures to be adopted in the course of insolvency proceedings concerning legal aid.

6th) Actions in connection with demanding civil liability of corporate administrators, auditors and when applicable, liquidators (receivers) for damages sustained by the insolvent party during the proceedings.

2. Commercial courts will also hear conflicts of jurisdiction in civil matters concerning:

a) Suits arising from actions filed for unfair trading, industrial and intellectual property and advertising, as well as all matters which within this jurisdiction are filed pursuant to the statutory provisions applicable to trading companies and co-operative entities.

b) Claims arising from the legal provisions on domestic or international transport.

c) Claims related to Maritime Law application.

d) Actions filed against standard terms and conditions in the cases foreseen by the legislation on this matter.

e) Appeals against decisions given by the Directorate General of Public Registers and Notarial Associations against a resolution passed by a Registrar pursuant to the terms of the Mortgage Act for this type of proceedings.

f) Proceedings on application of articles 81 and 82ter of the Treaty of the European Community and its secondary legislation.

g) Matters vested in first instance courts pursuant to article 88 of the Arbitration Act when they refer to matters contemplated in this Article.

Article 87.

1. Examining Courts will hear of the following criminal proceedings:

a) Preliminary inquiries for offences which are to be heard at the Provincial Courts and Criminal Courts except for those proceedings which are conducted at the Domestic Violence Courts.

b) Sentences which confirm the prosecution's request for conviction in the cases established by law.

c) Hearing and sentencing in the course of infraction proceedings except for those misdemeanours which are to be heard by the Judges of Peace or at the Domestic Courts.

d) Habeas corpus proceedings.

e) Appeals established by law against resolutions given by Judges of Peace and conflicts of jurisdiction between them.

f) Making of protection orders in the case of assault on women when the Court is engaged in guardianship functions provided that such order may not be entered by the Domestic Violence Courts.

Article 87 bis.

1. In each judicial district there will be one or more Domestic Violence Courts which have their seat in the capital of that district and jurisdiction over all its territory. These Courts will be designated by the name of the district.

2. Notwithstanding the foregoing, Domestic Violence courts may be created with jurisdiction over two or more judicial districts in the same province.

3. The Council General of the Judiciary may agree following a report by the Boards of Governance that in those districts in which the work load makes it advisable, hearing of the matters foreseen in article 87ter of this Public General Act will be assigned to a First Instance or Examining court as the case may be, and in this case it will be provided that one of these bodies will hear all matters within the judicial district, either exclusively or together with other matters.

4. Judicial districts which have only one Examining and First Instance Court will vest in that court the cognizance of all matters described in article 87ter of this Act.

Article 87 ter.

1. Domestic Violence Courts will hear in the criminal jurisdiction all proceedings and appeals foreseen in the Criminal Code concerning the following matters:

a) Preliminary investigation to exact criminal liability for offences contemplated in the Criminal Code sections referred to manslaughter, abortion, injuries, injuries to the foetus, offences against personal freedom, moral integrity, sexual freedom and protection or any offence perpetrated with violence and intimidation provided that they have been perpetrated against who has been or is currently his spouse or any woman with whom he has had emotional ties, even if he has not effectively lived with her, as well as those perpetrated on his own descendants or the descendants of his wife or couple, or on minors or disabled individuals who live with him or who are under the parental authority, custody, care, placement or de facto wardship of the spouse or his couple when a violent assault has been perpetrated.

b) Examining proceedings to establish criminal liability for any offence against family rights or duties when the victim is any of the persons mentioned in indent a) above.

c) Adoption of protection orders for victims notwithstanding the faculties vested in the Duty Magistrates Court.

d) Hearing and sentencing infractions described in Parts I and II of Volume III of the Criminal Code when the victim is any of the persons included in indent a) above.

e) Issue a sentence accepting the conviction sought by the prosecution.

2. Domestic Violence Courts may hear in civil jurisdiction all proceedings and appeals foreseen in the Civil Procedure Code regarding the following matters:

a) Filiation, marriage and paternity.

b) Annulment of marriage, separation and divorce.

c) Parental authority issues.

d) Approval or amendment of measures on family matters.

e) Guardianship and custody of underage children or child support claimed by one of the spouses against the other on behalf of the underage children.

f) Measures concerning consent required in adoption proceedings.

g) Opposition to administrative decisions on protection of minors.

3. Domestic Violence Courts will have sole exclusive and excluding competence in civil matters when the following requirements concur:

a) Civil proceedings in which the subject matter is any of the areas indicated in section 2 of this Article.

b) When any of the parties to the civil suit has been the object of sexist violence in the terms described in subsection 1 a) of this Article.

c) When any of the parties in the civil proceedings has been indicted as the author, accomplice or abettor in perpetrating sexist acts.

d) If criminal proceedings have been filed in the Domestic Violence Courts for offences or infractions related to domestic assault or when a protection order has been entered for a victim of sexist acts.

4. When a Judge considers from the findings of the case that they may clearly be considered as a domestic assault, he may dismiss the claim and submit it to the competent court.

5. In all these cases, mediation is not possible.

Article 88

In the city of Madrid one or more Central Examining Courts may exist with jurisdiction in all Spain which will hear all suits that are to be heard at the Criminal Division of the National Court or when applicable, at the Central Criminal Courts and they will handle the proceedings for the European Arrest and Surrender Warrant and the extradition requests from other countries in the terms established by law.

Article 89

The Judicial Organization and Staffing Act may establish as differentiated bodies First Instance and Examining Courts in those judicial districts it considers appropriate.

Article 89 bis.

1. In each province one or several Criminal Courts will be created which have their seat in the capital. Criminal Courts which jurisdiction refers to one or several districts of the same province as provided by the legislation on judicial organization and staffing will determine the city in which they have their seat. Criminal Courts will be designated by the name of the city where they have their seat.

2. Criminal Courts will hear those criminal proceedings vested in them by law.

For the cognizance of those matters handled by the Domestic Violence Courts and in view of the existing cases, one or several courts in each province will have to be specialised as provided by article 98 of this Act.

3. In the city of Madrid and with jurisdiction in all the territory of Spain there will be one or several Central Criminal Courts who will hear in the terms established in procedural laws all suits for those offences mentioned in article 65 hereunder and other matters established by law.

Article 90.

1. In each province one or several contentious-administrative courts will be created which have their seat in the capital of that province and jurisdiction throughout its territory.

2. When the volume of matters requires it, one or several contentious-administrative courts may be created in those cities established by law. They will be referred to by the name of the council where their seat is located and their jurisdiction refers to all its territory.

3. Exceptionally, contentious-administrative courts may be created which have jurisdiction to one or more provinces within the Autonomous Community.

4. In the city of Madrid, with jurisdiction throughout Spain, there will be Central Contentious-Administrative Courts which will hear in first instance contentious-administrative appeals in first or sole instance against provisions and acts issued by public authorities, bodies and agencies which have jurisdiction in all the territory of Spain in the terms provided by the law.

Article 91.

1. Contentious administrative courts will hear in sole or first instance contentious administrative appeals against administrative resolutions in the terms provided by the law.

2. Contentious-administrative courts may also issue writs authorising home search warrants and for other buildings or sites that may only be accessed if their owner consents to it when this becomes necessary in the course of enforcement proceedings related to Public Administration resolutions.

Article 92.

1. In each province, one or more Labour Courts may exist with jurisdiction throughout its territory and sitting in the capital of that province. They may also be created in other cities than the capital of the province when the requirements of the cases handled or the closeness to certain industrial areas makes it advisable; in such case, their scope of jurisdiction will be specifically established.
2. Exceptionally, Labour Courts may extend their jurisdiction to one or more provinces within the same Autonomous Community.

Article 93.

Labour Courts will hear in sole or in first instance all proceedings related to this type of jurisdiction when their hearing is not vested in other bodies of this jurisdiction.

Article 94.

1. In each province and within the criminal jurisdiction there may be one or more Parole Courts which will have the jurisdictional functions foreseen in the General Parole Act with regard to enforcement of convictions and security measures, jurisdictional control of disciplinary faculties vested in penitentiary authorities, protection of rights and benefits of inmates serving term in penitentiary centres and other competencies vested by law in them.
2. Parole Courts may be created with jurisdiction encompassing two or more provinces in the same Autonomous Community.
3. Parole Courts may be created with limited jurisdiction to part of a province.
4. In the city of Madrid with jurisdiction throughout the territory of Spain there will be one or several Central Parole Courts which will have the jurisdictional functions foreseen in the Parole Act described in section 1 of this Article and any other competencies vested in them by law with regard to offences which are to be heard at the National Court. In any event, jurisdiction of these Central Parole Courts is preferred and exclusive in the event that the offender is already serving other convictions which have not been imposed by the National Court.
5. The appointment of Parole Court judge is compatible with judicial duties in a criminal court.

Article 95.

1. The number of Parole Courts will be determined by the Organization and Staffing Act in view of the current existing penitentiary centres and their nature.
2. The Government will determine the seat of these Courts after having heard the Autonomous Community involved and the Council General of the Judiciary.

Article 96.

1. In each province one or more Juvenile Courts will be created with jurisdiction in all its territory and seat in the capital of that province. Notwithstanding in view of the workload a number of Juvenile Courts may be created with jurisdiction over one or more judicial districts or over two or more provinces of the Autonomous Community. They will be referred to by the name of the city where they are located.
2. The Central Juvenile Court located in the city of Madrid and with jurisdiction throughout the Spanish territory will hear all suits in connection with criminal liability of juvenile offenders in the term provided by its specific statute.

Article 97.

Juvenile Court judges will exercise those functions vested in them by the law regarding those minors who have engaged in acts considered to be an offence or an infraction by law and any other misconduct by juvenile offenders established by law.

Article 98.

1. The General Council of the Judiciary may agree following a preliminary report of the Boards of Governance that in those judicial districts in which there is more than one court of the same class, one or more courts will then have exclusive jurisdiction over certain matters or regarding the enforcement of decisions for that type of jurisdiction notwithstanding the secondment from common resources created to that purpose.
2. This resolution will be published in the State Gazette and will become effective from the beginning of the next year to the one in which it was adopted.
3. Courts included in the aforementioned resolution will continue hearing all pending proceedings until their conclusion.

CHAPTER VI – JUDGES OF PEACE

Article 99.

1. In each council in which no First Instance or Examining Court exists, a Justices' of Peace Court will be created with jurisdiction over that council.
2. A clerk's office may be shared between a number of Justices' Courts.

Article 100.

1. Justices' Courts will hear civil proceedings in first instance, render sentences and enforce them in the terms provided by law. They will also perform Registrar duties in the cases established by law.
2. In criminal jurisdiction they will hear in first instance proceedings for infractions vested in them by law. They will also act in criminal prevention activities or as a surrogate court in the terms provided by law.

Article 101.

1. Justices' courts and their surrogates will be appointed for a four year period by the Board of Governance of the corresponding High Court of Justice. Appointment will fall on the individuals chosen by the Town Hall of that council.
2. Judges of Peace and their deputies will be designated at a plenary session of the Town Hall by majority of favourable votes cast among the persons who meet the legal requirements to be appointed a Justice of Peace. If no candidates exist, the plenary session may choose freely the person to perform these duties.
3. Following a resolution thereon, it will be submitted to the judge of the First Instance Court who will submit it to the Board of Governance.
4. If within the term of three months reckoned from a vacancy in a Justices' Court the Town Hall does not submit an application in the terms foreseen in the precedent sections, the Board of Governance of the High Court of Justice may designate a Justice of Peace. The same procedure will be followed when the person appointed by the Town Hall does not meet the legal requirements.
5. Justices of Peace must take an oath before the judge of the First Instance Court and will step into office before the person who is currently performing such duties.

Article 102.

Incumbent and deputy Justices of Peace may be appointed among those persons who in spite of not holder a Law Degree meet the requirements established in this Act to become members of the Judiciary and they are not under any disqualifying or invalidating circumstance to perform judicial duties, however they may engage in professional and commercial activities.

Article 103.

1. Justices of Peace will be remunerated by the system and for the amounts established by law and will enjoy within their jurisdiction the treatment and rank which would apply to a magistrate of a first instance court.

2. Judges of Peace and their deputies will step down from office once the term of their appointment has elapsed and for the same circumstances as professional judges insofar as they apply to them.

VOLUME II GOVERNANCE OF THE JUDICIARY

PART I Governing Bodies of the Judiciary

SOLE CHAPTER: GENERAL PROVISIONS

Article 104.

1. The organization and performance of judicial functions of the Judiciary complies with the principles of unity and independence.

2. Governance of the Judiciary is vested in the Council General of the Judiciary which performs its duties throughout the Spanish territory in compliance with the Constitution and the Law. Under its supervision, the Boards of Governance of the Supreme Court, the National Court and the High Courts of Justice will discharge their duties as provided by law notwithstanding the competencies vested in the Presidents of these Courts and the incumbent judges of other judicial bodies.

Article 105.

The President of the Supreme Court and of the Council General of the Judiciary is the first judicial authority of the nation and holds the representation of the Judiciary and of its Board of Governance. His rank and treatment will be equal to the incumbent holder of one of the three powers of state.

Article 106.

1. The boards of governance of the Supreme Court and the National Court will exercise their duties in those Courts. The powers of the National Court extend to the Central Examining Courts.

2. The boards of governance of the High Courts of Justice will exercise their powers within their Court with regard to the courts and tribunals of that Autonomous Community.

3. The other jurisdictional bodies shall have governance duties with regard to the scope of jurisdiction of their respective bodies.

PART II The Council General of the Judiciary

CHAPTER II Faculties vested in the Council General of the Judiciary

Article 107.

The Council General of the Judiciary is competent in the following areas:

1. Proposal for the appointment of the President of the Supreme Court and the Council General of the Judiciary by majority of three fifths.

2. Proposal by majority of three fifths to appoint members of the Constitutional Court when applicable.

3. Inspection of Courts and Tribunals.

4. Selection, training and re-training, appointments, promotions, administrative status and disciplinary competencies with regard to Judges and Magistrates.
5. Appointment by order of judges under the form of a Royal Decree to be ratified by the Minister of Justice of appointment of judges to the Supreme Court, Presidents of Courts and higher judges.
6. Appointment of the Secretary General and members of staff or departments attached to the Secretary General.
7. Exercise of competencies vested in the Judiciary Training School as provided by law
8. Draft, monitor compliance and control the Council's budget.
9. Issue regulations in the terms foreseen in article 110 of this Act.
10. Official publication of judgments and other resolutions from the Supreme Court and other judicial bodies. To that purpose, the Council General of the Judiciary following a report of the competent administrative bodies will issue regulations on how electronic compilation of judgments is to be carried out in order to ensure at all times their accuracy, authenticity and access, and likewise to ensure compliance with the personal data protection statute.
11. Any other faculties vested in this body by law.

Article 108.

1. The Council General of the Judiciary must issue a report on the bills and other draft legislation to be passed by the State and the Autonomous Communities when they refer totally or partially to the following areas:

- a) Determine and modify judicial districts and their seat in the terms foreseen in article 35 of this Act.
- b) Determine and amend the staffing of Judges, Magistrates, Court Clerks and other personnel who work within the judicial system.
- c) Organizational Statute of Judges and Magistrates.
- d) Organizational Statute of Court Clerks and other officers who are employed by the judicial system.
- e) Procedural rules which refer to the legal and constitutional issues concerning protection by the Courts of fundamental rights and any other matters on the organization, functioning and governance of Courts and Tribunals.
- f) Criminal courts and regulations on the penitentiary system.
- g) Any others vested in this body by law.

2. The Council General of the Judiciary will issue a report in the term of thirty days. When the aforementioned report is requested on an urgent basis, the term for its submission will be fifteen days.

3. The government will submit the report to Parliament in the case of bills of law.

4. The Council General of the Judiciary will be heard prior to appointing the Attorney General.

Article 109.

1. The Council General of the Judiciary will submit an annual report to Parliament on the situation, functioning and activities of the Council itself and the Courts and Tribunals of Justice. It will also mention its needs in terms of personnel, installations and resources in general to ensure an adequate discharge of the duties vested in the Judiciary by the Constitution and the statutes.

2. The Parliament pursuant to its Rules of Procedure may discuss the contents of the aforementioned report and request, when deemed appropriate, the appearance of the President of the Council General of the Judiciary or a member of said body who will deputise for him. The contents of the Report pursuant to the Rules of Procedure of the House may lead to filing of motions and questions which must be answered by the Council General, and in general, to adopting all and any measures foreseen by the Rules of Procedure.

3. The Parliament if the Rules of Procedure allow for it, may request a report from the Council General of the Judiciary on any future bills or amendments which refer to the matters described in the preceding article. This rule will also apply to the Legislative Assemblies of the Autonomous Communities.

Article 110.

1. The Council General of the Judiciary may issue regulations on its personnel, organization and functioning within the framework of public functions legislation.

2. The Council General of the Judiciary within the area of its competencies and subject to statutory provisions on the matter may pass enabling regulations to this Act in order to establish secondary and ancillary regulations.

These Regulations may establish accessory conditions for the exercise of rights and duties which make up the judiciary framework without innovating or amending it as a whole. They may be approved when they become necessary for the enforcement or application of this Act when it has been foreseen hereunder or in any other statute, and particularly with regard to the following matters:

a) Access system, promotion and specialisation within the Judicial profession, legal framework of judiciary officers in training and junior judges, theory and practical courses in the Judicial School, organization and functions of this school.

To that purpose, the enabling regulations on organization and functions of the Judicial school must determine the members who will be appointed to its Board of Governance which must include in any event officers from the Ministry of Justice and from Autonomous Communities vested with judicial competencies and representatives from professional associations of judges and magistrates.

b) Allocation system of vacancies and appointments for judges and magistrates.

c) Minimum term of office for judges and magistrates.

d) Proceedings for public examinations and application for available positions and offices subject to discretionary appointment.

e) Training activities for judges and magistrates and procedure for obtaining specialisation titles.

f) Administrative status of judges and magistrates.

g) Leave and time-off for judges and magistrates.

h) Evaluation of knowledge of the language and specific law of an Autonomous Community as a special merit in order to qualify for judicial appointments in the territory of that autonomous community.

i) Disqualifying circumstances for judicial office and administrative proceedings on matters which refer to the office of judges and magistrates.

j) Contents of the judicial career in the terms foreseen by law..

k) System for replacement of judges, deputy magistrates and substitute judges and for Justices of Peace.

l) Functioning and faculties of the Governing Boards, Judges Committees and other governing bodies, elections, appointment and dismissal of members to Boards of Governance and Senior Judges.

m) Inspection of courts and tribunals, handling complaints.

n) Public dissemination of judicial proceedings, working days and hours, establishing public hearing timetables and setting up jurisdiction outside the court's seat.

ñ) Specialisation of judicial bodies, distribution of cases, reporting and general provisions on providing and conducting duty magistrates system, notwithstanding the competencies of the Ministry of Justice in this area, or where applicable of the Autonomous Communities vested with judicial staffing discretions.

o) Procedure for removal and designation of judicial appointments, honours list.

p) Judicial cooperation.

q) Distinctions and forms of address for judges and magistrates, rules of protocol in judicial acts.

r) Streamlining, organization and benchmarking work systems considered appropriate to determine the work load which may be handled by a judicial body and setting up minimum allocation requirements to ensure consistent workload allocation criteria.

3. Enabling Regulations drafts will be submitted to the professional associations of judges and magistrates and to the professional bodies or associations of any nature which have an acknowledged right by law to represent the interests thereof. The State Administration will be represented by the Ministry of Justice and Autonomous Communities will also be considered provided that they have competencies related to the future regulation contents or it becomes necessary to coordinate them with the ones held by the General Council. Preliminary consultation and studies as may be required will be carried out and a report on legal compliance of the purported regulations will be drafted. The Public Prosecutor's Office will be heard insofar as the matters contained thereunder refer to it and particularly in the cases foreseen in paragraphs n), ñ), and q of section 2 hereunder.

4. Regulations must be approved by the Plenary Session of the Council General of the Judiciary by majority of three fifths of its members authorised by the President and published in the Spanish State Gazette.

CHAPTER II Organization of the Council General of the Judiciary, appointment and replacement of its members

Article 111.

The Council General of the Judiciary will be chaired by the President of the Supreme Court and includes twenty members appointed for a five-year period by the King of Spain by means of a Royal Decree sanctioned by the Minister of Justice following a proposal made pursuant to the provisions of this chapter.

Article 112.

The twelve members who pursuant to article 122 of the Constitution are to be part of the Council General amongst Judges and Magistrates of all ranks will be proposed for their appointment by The King of Spain in compliance with the procedure below:

1. Any Judge or Magistrate from any rank who are currently holding office and do not belong to the former General Council or perform duties as technical advisors of same qualifies for appointment to this body.

2. The proposal will be submitted to The King of Spain by the Lower and the Upper Houses of Parliament, each House is entitled to appoint six officers by majority of three fifths of their Members amongst those Judges and Magistrates whose nomination has been proposed to Parliament in the terms foreseen in the section below.

3. Nominations may include up to three times the twelve positions to be covered submitted by professional associations of Judges and Magistrates or by a number of judges or magistrates who represent at least 2 per cent of all judges currently holding office. In order to determine the maximum number of candidates who may be submitted by each association and the maximum number of candidates who qualify for nomination on the basis of endorsements received by judges or magistrates, the following rules will be observed:

a) The thirty-six candidates will be distributed pro rata to the number of members of each association and the number of those candidates who do not belong to any association, the latter number will determine the maximum number of candidates whose nomination is by endorsement of unaffiliated judges and magistrates, all of which will comply with the information available at the Register created to that purpose by the Council General of the Judiciary in the terms foreseen in

article 401 of this Act and provided further that no judge or magistrate may endorse more than one candidate.

b) In the event that the number of candidate judges or magistrates by endorsement exceeds the maximum figure permitted under section a) hereunder, only those candidates who secured the highest number of endorsements up to the maximum figure allowed will be admitted. Conversely, if the number of endorsed candidates does not suffice to cover the total number of thirty six vacancies, the remainder will be supplied by associations pro rata to the number of affiliated members; to that purpose and to avoid further delays, associations will include in their initial proposal a separate list of supplementary candidates.

c) Each association will determine according to its by-laws the election procedure for the candidates it will finally submit.

4. Among the thirty-six designated candidates pursuant to the foregoing provisions, six Members will be designated by the Plenary Session of the Lower House and once these six members have been chosen, the Upper House will designate another six members amongst the remaining thirty candidates, notwithstanding all the above, the provisions of section 2 of Article 113 herebelow.

Article 113.

1. The remaining eight members which are to be appointed to the Council General and designated by the Lower and the Upper Houses of Parliament will be proposed to the King of Spain amongst legal practitioners and experts of acknowledged repute who have been in the profession for more than fifteen years and provided further that they are not part of the former Council nor of its technical advisors.

2. The Plenary Session of each House will appoint four Members by majority of three fifths of its Members in the same session which will designate the six Members mentioned in the preceding article and immediately after such designation.

Article 114.

The Council General of the Judiciary will be renewed entirely every five years reckoned from the date of its creation. To that purpose, and six months prior to expiry of the mandate of the current Council, the President will address both Houses of Parliament requesting from them the appointment of new members and informing them of the judiciary hierarchy at that time and the data available at the Register of professional associations of Judges and Magistrates currently existing in the Council which will be the basis for the nominations made in the terms of article 112 hereunder.

Article 115.

1. The inaugural session of the Council General of the Judiciary will be chaired by its most senior Member and will be held once its twenty members have been appointed who will step into office on oath or solemn undertaking before H.R.H. The King of Spain.

2. The former Council will continue performing its duties until the new Council has taken office.

Article 116.

1. Early resignation of a member of the Council General of the Judiciary will lead to its replacement. To that purpose the President of the Council will inform the House of Parliament that appointed him in order to conduct another nomination and voting in the same terms as those required for the first candidate..

2. The newly appointed candidate must meet the same requirements as the former one for his nomination, as the case may be, set out in articles 112 and 113 of this Act.

CAPITULO III Statute of Members of the Council General of the Judiciary

Article 117.

1. Members of the Council General of the Judiciary will perform their duties on a full-time basis, and their office is incompatible with any other office, professional activity or business, whether public or private, on their behalf or for a third party, remunerated or otherwise, except administrative duties in connection with family or personal estate. The specific disqualifying circumstances included in article 389, section (2) hereunder will apply to them.
2. Their administrative status for those members who are public officers, either as part of the judiciary or otherwise, will be of special dedication.

Article 118.

1. Incumbent holders of an office who are entitled to return to it as they have elected for a specific term and if such office is on a life-tenure basis, may have such office occupied, even by promotion, but only for the time in which they remain in that position by means of the usual procedures for appointments.
2. The persons who occupy those offices when the incumbent holder steps back into his office will be ascribed to the collegiate body in which the position was made available to them, and if such body is a Court at the orders of the corresponding President of the High Court of Justice, being entitled to collect the same remuneration as when they were performing their surrogate duties. While they remain in this situation, they will render their services at the positions determined by the respective Boards of Governance, being entitled to collect compensation when their duties are rendered in a location other than their usual place of residence, which to these purposes is deemed to be the office they held on a deputy basis.
3. While they hold surrogate office, once a year has elapsed since they were appointed to that office, or any time in the course of their surrogate duties, they may access a tenured appointment in compliance with the standard procedures for appointment and promotion. They will become tenured holders of the surrogate office they hold when it becomes vacant for any reason. During their time as surrogate officers they will be appointed to the first vacancy which arises in the collegiate body where they perform their duties or in courts of the same jurisdictional division as the deputised office except for the positions of President or those reserved by law to judges who have passed public examinations, if they are not under those circumstances.

Article 119.

1. Civil and criminal liability of members of the Council General of the Judiciary will be exacted pursuant to the procedure established to demand such liability for Supreme Court judges.
2. Members of the Council General of the Judiciary are not attached to any mandatory injunctions and may not be removed from office other than when their mandate expires, or following their resignation, disability, disqualifying circumstances or serious breach of their official duties. Their resignation will have to be accepted by the President and any other circumstances for their removal will have to be appreciated by the Plenary Session of the Council General of the Judiciary by majority of three fifths of its members..
3. Members designated according to the procedure established in section 3 of article 112 shall step down from office when among other reasons they no longer belong to the Judiciary. In that case, the provisions of article 116 will apply.

Article 120.

Members of the Council General of the Judiciary may not be promoted during the term of their mandate to Supreme Court judges nor appointed to any discretionary office of the Judiciary or to any office which appointment depends on their merits.

Article 121.

1. Members of the Council General of the Judiciary will collect for the entire term of their mandate a remuneration considered as the sole and exclusive consideration in view of the weight of their duties. Such remuneration will be the same for all members and they may not collect any other remuneration.

2. Members who at the time of their appointment do not belong to any State body or agency or held public office, or if they had formerly belonged but are not currently performing public duties, following expiry of their mandate after having held office for at least three years they will be entitled to a temporary remuneration equivalent to one year's salary at the time in which they stepped down from office. This temporary remuneration is subject to the same concurrent and disqualifying terms as other compensation payments which they may be entitled to from the State.

3. When a member of the Council General of the Judiciary is entitled to any State compensation for having belong to any public body or office, or to pension schemes from the National Insurance System, the time in which he performed his duties at the Council General will be reckoned in order to determine the compensation payable to him.

CHAPTER IV Bodies within the Council General of the Judiciary

Section 1. General Provisions

Article 122.

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

- The President
- The Vice-president
- Plenary Session
- Standing Committee
- Disciplinary Committee
- Classification Committee

2. By way of regulations, other Committees and Delegate bodies may be created.

Section 2. The President

Article 123.

1. The President of the Supreme Court and of the Council General of the Judiciary will be appointed by The King of Spain amongst members of the Judiciary or legal practitioners or legal experts of acknowledged repute and who have practised or held office for more than fifteen years. He may be re-elected and appointed only once more for an additional mandate.

2. The proposal of the Council General of the Judiciary will be adopted by three fifths of its members in its inaugural session.

3. Appointment of the President of the Supreme Court and of the Council General of the Judiciary will be made by means of a Royal Decree sanctioned by the President of the Government.

4. The President of the Supreme Court and of the Council General of the Judiciary will take oath of make a solemn undertaking before H.R.H. The King of Spain and will step into office in a joint Plenary Session of the Supreme Court and the Council General of the Judiciary.

5. The President of the Council General of the Judiciary will be deputised by the Vice-president in the event of vacancy, absence, illness or other legal grounds.

Article 124.

1. The Vice president of the Council General of the Judiciary will be proposed by a plenary session of its Members by majority of three fifths and his designation is made by the King of Spain.

2.The Vice president will deputise for the President in the cases mentioned in section (5) of the preceding article and he will perform any and all other duties vested in him by law.

Article 125.

The President of the Council General of the Judiciary will have the following functions:

1. Represent the Council General of the Judiciary.
2. Convene and preside over the sessions of the Plenary Meeting and Standing Committee, and in the event of a draw, he will have the casting vote.
3. Determine the agenda for the Standing Committee sessions.
4. Refer all proposals he deems expedient on issues which are to be heard by the Plenary Meeting or the Standing Committee.
5. Submit nominations for Supreme Court judges in the terms foreseen in article 127.4) of this Act.
6. Propose the creation of work committees to issue a resolution or handle a certain matter.
7. Undersign the resolutions passed by the Plenary Meeting and the Standing Committee.
8. Senior supervisory duties concerning the technical bodies of the Council.
9. Any others foreseen by law.

Article 126.

1. The President of the Supreme Court and of the Council General of the Judiciary will step down from office:

- a) Following expiry of the term of his mandate which will be deemed ended on the same date in which the Council General legislature for which he was proposed finalises.
- b) By resignation.
- c) Following a proposal of the plenary session of the Council in the event of manifest incapacity or serious breach of the duties of his office endorsed by three fifths of its members.

2. If the circumstances a) and b) foreseen in this article concur, they will be reported to the Government through the Ministry of Justice. In these cases a new appointment will be made for the position of President of the Supreme Court and of the Council General of the Judiciary.

Section 3. Plenary Sessions

Article 127.

The Plenary Session of the Council General of the Judiciary is vested with the following competencies:

1. Nomination proposal by majority of three fifths of its members of:

- a) The President of the Supreme Court and of the Council General of the Judiciary and the Vice president of this body.
- b) Members of the Constitutional Court who are to be designated by this body.
- c) Division Presidents and Judges of the Supreme Court and Presidents of the High Courts of Justice of the Autonomous Communities.
- d) The Judge of the second division (criminal jurisdiction) or the third division (contentious-administrative) of the Supreme Court which is competent to handle the authorization of activities to be conducted by the Central Spanish Intelligence Agency which refer to fundamental rights recognised in articles 18.2 and 18.3 of the Constitution, and the judge who is to act as his deputy in the event of vacancy, illness or impossibility by the incumbent judge to perform his duties.

In order to reckon the special quorum required in this article, the aggregate sum of the twenty-one members who make up the Council General of the Judiciary will be considered as provided under article 111 hereunder.

In order to conduct the nominations foreseen hereunder, the Plenary Session of the Council General of the Judiciary will ensure at all times that the principles of merits and capacity are considered.

2. Nominations for other offices which are of discretionary nature.
3. Preliminary hearing to designate the State Attorney General as foreseen in article 124(4) of the Constitution.
4. Hear the review appeals filed against resolutions passed by the Standing Committee, the Disciplinary Committee and the Boards of Governance of the High Courts of Justice and the governing bodies of Courts and Tribunals.
5. Decide on reinstatement proceedings conducted by the Disciplinary Committee.
6. Issue the mandatory reports foreseen by law and pass enabling regulations in the terms foreseen by statute to the Council General of the Judiciary.
7. Resolve as provided by law on the suspension of judges from office and their retirement.
8. Designate and appoint members of Committees and Delegations.
9. Approve the annual report which following the opening of the judicial year will be read by the President of the Council General on the state of the administration of justice.
10. Prepare the budget of the Council General of the Judiciary which will be included in the National Budget under an independent chapter.
11. Supervise execution of the Council's budget and monitor compliance.
12. Any other functions vested in the Council General of the Judiciary and which have not been expressly vested in other bodies within it.

Article 128.

The Plenary session will meet following notice thereof submitted by the President, or where applicable, the Vice-president, in ordinary or extraordinary sessions as determined by its Rules of Procedure approved by the Council itself. In any event, an extraordinary session will be held when so requested by five of its members indicating in the agenda the matters to be transacted thereat.

Article 129.

The Plenary Session will be validly held when at least fourteen of its members are present thereat including the President or the person who legally represents him in the meeting.

Section 4. The Standing Committee

Article 130.

1. On an annual basis, the Plenary Meeting of the Council General of the Judiciary will designate the Standing Committee which is made up of the President of the Council General who will preside over it and four Members appointed by majority of three fifths following a resolution passed by the Plenary Session of the Council General; two members belonging to the Judiciary and the two others will not be part of same.
2. Meetings of the Standing Committee will only be valid if at least three of its members are present thereat, including the President or the person legally appointed to represent him.
3. The President may delegate in the Vice president or in the person who deputises for the latter to chair the meetings of the Standing Committee in order to discuss any matters within the faculties of this body.

Article 131.

The Standing Committee is vested with the following faculties:

1. Prepare Plenary meetings.
2. Ensure that resolutions passed at Plenary meetings of the Council are effectively enforced.

3. Resolve on the appointment of judges and magistrates whose appointment is not discretionary and therefore need not be heard by the Plenary meeting, decide on their mandatory retirement when they reach the legal age, resolve on their administrative regulations and on the resignation of deputy judges and magistrates either because the term for which they were appointed has elapsed or because they have reached seventy-two years of age.
4. Resolve on leave and time-off requests made by judges and magistrates in the terms established by law.
5. Determine the rank within the Judicial career hierarchy.
6. Exercise any and all faculties vested in this body by the Plenary Meeting or by law.

Section 5 The Disciplinary Committee

Article 132.

1. The Plenary Meeting of the Council General of the Judiciary will designate on an annual basis, amongst its members those officers who are to be part of the Disciplinary Committee who will consist in five members. Three of them will be chosen among members who belong to the judicial career and the other two officers will be from another body.
2. The Disciplinary Committee must act in any event with the attendance of all its members chaired by the member designated as its president by majority of its members. In the event of temporary absence or incapacity of one of their members, he will be replaced by another member of the Council General from the same background who will be designated by the Standing Committee.

Article 133.

The Disciplinary Committee is competent to open proceedings and impose sanctions on judges and magistrates.

Section 6 – The Classification Committee

Article 134.

1. On an annual basis, the Plenary Meeting of the Council General of the Judiciary will designate the members of the Classification Committee who will consist in five members chosen in the manner established for the Disciplinary Committee.
2. It will be chaired and deemed validly held in the same cases as for the aforementioned Committee.

Article 135.

The Classification Committee will inform on the appointments which are to be heard at the Plenary Meeting except for the appointment of the Supreme Court judge foreseen in article 127(4) hereunder.

Article 136.

For an adequate provision of the classification criteria applicable to judges and magistrates, the Committee may receive information from other bodies of the Judiciary and in any event it will receive an annual report prepared by the corresponding Boards of Governance of the jurisdictional bodies to which they are ascribed based on objective and sufficiently tested and detailed criteria.

CHAPTER V Nature of the Council General acts

Section 1. Procedure to pass resolutions

Article 137.

1. Resolutions by collegiate bodies of the Council General will be adopted by majority of attending members except when the law provides otherwise. The presiding officer will have the casting vote in the event of a draw.

Notwithstanding the provisions of article 129 and concordant provisions of this Act, in the event that resolutions may not be adopted in the event of insufficient quorum, a second notice may be made with the ordinary quorum foreseen for collegiate bodies under common legislation for public administrations.

2. Discussions at the Council bodies will be secret and its members must uphold their secrecy.

3. A dissenting member may request that his vote be recorded in the minutes of the meeting. If he wishes to do so, he may file his dissenting vote in writing with the reasons for the same which will be included in the minutes provided that he submits it within the next day to the one in which the resolution was passed.

4. When the Plenary meeting avails itself of its reporting faculties, the text of the resolution passed shall include the dissenting votes with the reasons for them to be attached to the documents submitted to the recipient body.

5. Resolutions by any body of the Council General will include the grounds for such decision.

Section 2: Placing the resolutions on record

Article 138.

Resolutions passed by the Council General will be placed on record by the Secretary General and undersigned by the officer who acted as the president.

Section 3: Legal nature of the acts passed by the Council General

Article 139.

1. Resolutions by the Council General on the appointment of Presidents and judges will be Royal Decrees signed by The King of Spain and sanctioned by the Minister of Justice. Appointment of judges will be made by the Council by means of an Order. All these acts will be published in the State Gazette.

2. Regulations published by the Council General of the Judiciary will be published in the manner foreseen in article 110(4) of this Act.

3. All other resolutions duly placed on record and including the dissenting votes if any will be notified to the persons or bodies who are to enforce them or acknowledge them. These resolutions will be published in the cases and in the manner established by the general provisions which apply to them.

Section 4: Enforcement of Acts

Article 140.

1. Acts by the different bodies of the Council General of the Judiciary will be immediately enforceable notwithstanding the review procedure foreseen by law.

2. Notwithstanding, when an appeal is filed against them, the competent authority to hear such appeals may resolve ex officio or at the request of any of the parties to suspend their enforcement when their execution may cause irreparable or very serious damages, or when their suspension is foreseen by law.

Article 141.

The Council General will enforce its own acts which will be carried out by the technical bodies within its organization with the collaboration where necessary of the State Administration and the Autonomous Communities

Section 5: Procedure and appeals

Article 142.

1. In default of any specific provision hereunder, procedure, appeals and resolutions by the Council General will comply insofar as applicable to this body the legal provisions established in the Administrative Procedure Act, and under no event the assistance of the Privy Council of State will be required.

2. In the event of resolutions which refer to declaratory decisions of rights, ex officio revision and where applicable, preliminary ascertaining of damages, they will be passed at a Plenary Meeting of the Council by majority of its members.

Article 143.

1. Interlocutory resolutions which make it impossible to continue proceedings or entail defencelessness and final resolutions by the Standing Committee or the Disciplinary Committee may be appealed by way of revision before the Plenary Meeting of the Council General.

2. Decisions, resolutions and provisions issued by the Plenary Meeting may be appealed before the contentious-administrative division of the Supreme Court.

CHAPTER VI Technical Bodies within the General Council

Section 1: General Provisions

Article 144.

The organization and staffing regulations of the Council General of the Judiciary will determine the structure, functions and competencies of its technical bodies.

Article 145.

1. The technical bodies of the Council General of the Judiciary may be staffed with members of the Judiciary and the Prosecutor's Office, of the Court Clerks' Association, of the Procedural and Administrative Officers body, of the Procedural Filing and Administrative body, of the Secondment officers of the Judiciary body and also with officers that work in any of the public administrations in the number foreseen in the corresponding job descriptions.

2. Staff working at superior bodies who must hold a law degree in order to qualify for those positions will be referred to as Legal Counsel at the service of the Council General of the Judiciary.

Article 146.

1. Staffing of technical positions within the Council General of the Judiciary will be made by merits.

2. Those candidates who have obtained higher positions will be appointed to office in a Plenary Meeting of the Council General of the Judiciary on the basis of their merits for a two-year term which may be renewed annually for a maximum length of service of ten years and their administrative status will be of special services with regard to their original placement.
3. Staffing of other positions for the remaining technical bodies of the Council General of the Judiciary, these officers are deemed to be holding office at their original appointments.
4. For the time they are performing their duties in the Council General of the Judiciary, they will be subject to the Staff Regulations of the Council General.

Section 2: Specific provisions for technical bodies

Article 147.

The Secretary General will be appointed and freely removed from office at a Plenary Meeting of the Council General of the Judiciary shall attend all meetings of its bodies without any voting rights although he may take part in their discussions, with specific functions of management, handling and recording all matters transacted at the Council General and of managing and coordinating all other technical bodies.

Article 148.

The Inspection Department will undertake under the supervision of the Council General verification and inspection functions with regard to the adequate performance of judicial bodies by conducting visits and proceedings in the terms determined by the Council General, all the above notwithstanding the faculties vested in the governing bodies of the Courts.

VOLUME III GOVERNANCE AT COURTS AND TRIBUNALS

CHAPTER I: Boards of Governance of the Supreme Court, State Court and High Courts of Justice

Section 1: Governance Boards, appointment of officers and their replacement

Article 149.

1. The Boards of Governance of the Supreme Court and of the State Court will be presided by the President of those bodies and by the presidents of their respective divisions and by a number of judges equal to them.

2. The Boards of Governance of the High Courts of Justice will be presided by the Chief Justice of those bodies and by the Chief Justices of each of their divisions and by the Chief Justices of the Provincial Courts of each Autonomous Community and by the same number of judges or magistrates belonging to the Judiciary appointed to that territory. One of the members of the Board will be a magistrate unless there are no candidates of that rank.

Additionally, the board will include doyen judges who will be deemed elected officers to all purposes provided that they comply with the provisions of article 166(3) hereunder and have been fully discharged of their duties in their respective courts.

3. The Boards of Governance of the High Courts of Justice who have more than ten members will act as Plenary Meetings or Committees.

A committee will consist in six members, three standing members and three elective members. Their appointment is vested in the Plenary meeting and if vacancies ensue, it will also designate the officers who are to fill in the vacancies. Notwithstanding, the doyen judge fully discharged of his

judicial duties will also be part of same, and if several judges are in the same situation, at least one of them.

The Committee will renew itself annually in the same proportion and will be chaired by the President of the Supreme Court of Justice.

4. The Secretary of the Board of Governance of the Supreme Court, of the National Court and of the respective High Courts of Justice will perform the duties of Board of Governance secretary notwithstanding any other faculties vested in his office by this Act.

Article 150.

The elective members of the Boards of Governance will be renewed wholly every five years reckoned since the date of their creation. Once the aforementioned term has elapsed, the Board of Governance will continue discharging its duties until the new Board has been elected

Article 151.

1. Appointment of members to the Boards of Governance will comply with the following rules:

First. Their election will be made by secret, personal, free, equal, direct and secret vote, and voting by mail is accepted.

Second. Nominations may include one or several candidates including their alternate officer up to a number equal to the positions which are to be covered. Nominations are valid provided that record of the candidate's assent exists although they may be also endorsed by a professional association legally created. Nominations are made on an open list basis and electors may vote as many candidates and alternate officers as vacancies exist.

Third. Candidates will be elected to office by majority of votes cast. If a strict application of this rule entails that no magistrate has been appointed to the Board of Governance of a High Court of Justice, then the Judge who has been designated to the Board by the least number of votes among the candidates will assign his nomination to a magistrate.

2. To the purposes of this Article, a Voting Committee will be created in each Court presided by the Chief Justice of that Court and including also the most senior and junior judge of the Supreme Court, of the National Court and of the corresponding High Court of Justice.

3. The Council General of the Judiciary is vested with the faculty of convening elections and issue the appropriate instructions for their organization and in general terms to ensure that voting proceedings comply with the law.

4. Each Voting Committee will announce the designated candidates as will act as the Polling Station at the elections day, counting the number of votes and announcing the results which will be reported to the Council General and in general they are entrusted with the smooth running of all the voting procedure. Resolutions by the Voting Committee may be revised by filing a contentious-administrative electoral review appeal.

5. In the event of early resignation for any reason of any of the members appointed to the Board of Governance, their position will be covered by the alternate candidate.

6. If an elected member resigns and the alternate officer also resigns, then his position will be covered by the candidate who was not elected that received the highest number of votes. If no candidates exist who were not elected, then partial elections will be convened to cover the vacant position or positions.

Section 2. Boards of Governance competencies

Article 152.

1. The Boards of Governance, also the ones acting by means of a Committee will perform governance duties at their respective courts and in particular they are competent to:

One. Approve the rules for distribution of cases between the different sections of a Division.

Two. Establish annually with objective criteria the roster for staffing and running each division and section of the Court and the Provincial Courts of the territory and provide binding regulations on reporting duties by each judge in turns.

Three. Adopt the necessary measures in the event of disputes among judges which may influence in the adequate functioning of the courts or in the provision of justice, observing the principle of judges as tenured holders of their office.

Four. Complete on a provisional basis the composition of the Divisions in those cases in which for unforeseen circumstances it becomes necessary to do in order to ensure an adequate functioning of the service, observing however the specific appointment of each judge within the Division.

Five. Submit a proposal to the Council General of the Judiciary indicating the reasons for designating the alternate judges, their personal and professional circumstances, their adequacy for the office they are to cover and to act in one or several jurisdictional divisions, the guarantees for an efficient discharge of their duties and the aptitude of those who have already performed judicial duties or have worked at the State Prosecutor's Office, explaining the grounds for the proposed order of preference and the reasons for excluding certain candidates. The proposals referred to ascribing alternate judges for secondment purposes are also subject to identical requirements of grounds for choosing certain candidates, preferred criteria and reasons for exclusion.

Six: Exercise disciplinary functions on judges in the terms foreseen by this law.

Seven. Propose inspection and information visits to the President as deemed appropriate.

Eight. Handle retirement files following incapacity of judges with their support documents.

Nine. Prepare any reports requested by the Council General of the Judiciary and the annual report explaining the functioning of the Court, with a detailed break down of number and types of cases handled and completed by each division, pending suits indicating the year in which they commenced, all the above as of December thirty-first of each year. The report must include in any event a set of measures envisaged to correct any deficiencies detected.

Ten. Submit a proposal to the Council General of the Judiciary concerning whatever measures it considers appropriate to improve the administration of justice within the scope of their respective judiciary bodies.

Eleven. Receive the oath or solemn undertaking by judges when taking office in the terms established by law.

Twelve. Receive reports from the Secretary of Governance either at its own initiative or from the Division itself with regard to all matters which refer to the judiciary offices or court clerks reporting to him and calling for some action to be taken. In this case, the Secretary will have the right to vote on the resolution which may be passed thereof.

Thirteen. File before the competent bodies actions for disciplinary liability with regard to court clerks, personnel working at the courts or any other individuals who in spite of not being under these circumstances provide permanent or temporary services at the courts.

14. In general, comply with all other functions which the Laws have vested in the boards of governance of the courts and which are not specifically vested in their Chief Justices.

2. The Boards of Governance of the High Courts of Justice, in Plenary Meeting or acting as a Committee are also competent to:

One. Approve the rules on allocation of cases between the Court divisions and among the sections of the Provincial Courts and Courts of the same jurisdictional order which have their seat in the corresponding Autonomous Community. Exceptionally, when workload requirements makes it advisable and on reasoned grounds, the Board of Governance may provide that a certain section or judge be discharged from the allocation of cases either fully or in part and always for a limited period of time.

Two. Exercise the faculties includes in numbers five to fifteen above but also with regard to those judicial bodies which have their seat in the Autonomous Community with regard to the judges and magistrates performing their duties thereat.

Three. Appointment of Judges of Peace.

Section 3. Functioning of Boards of Governance and legal nature of their acts

Article 153.

1. Boards of Governance will meet at least twice a month unless there are pending matters and as may times as may be necessary in order to discuss urgent issues for the administration of justice, when deemed necessary by the Chief Justice of the High Court of Justice, when requested by a third part of its members submitting a proposal stating the grounds for their request indicating the matters to be transacted thereat or when requested by the Secretary of Governance in order to discuss issues which refer to judicial officers or to Court clerks who report to him. Notice of the meeting will be made by the Chief Justice indicating the matters to be discussed.

2. The Boards of Governance of the High Courts of Justice acting as a Committee will meet every week. The Committee on a quarterly basis will inform the Plenary Meeting which will have been convened of all matters which have been handled and solved. The Plenary Meeting may also meet when to the judgment of the Chief Justice or the Committee, the impact, importance or interest for the administration of justice of the matters to be handled make it advisable, or when so requested by majority of its members following a reasoned proposal thereon stating the matter to be discussed and decided on of when requested by the Secretary of Governance in order to discuss issues which refer to judicial officers or to Court clerks who report to him. Notice of the meeting will be made by the Chief Justice indicating the matters to be discussed.

3. The Board of Governance may also act with the Chief Justice and two other members for proceedings which do not entail a formal decision such as receiving oaths or solemn undertakings or when judges or magistrates come into office.

4. In all other cases for a meeting of the Board to be valid it will require the presence of at least the majority of its members who must be notified at least 24 hours in advance.

Article 154.

Any members who have a direct or indirect interest in the matters to be voted on may not be present at the meeting and the provisions of this Act on recusation or waiver of jurisdiction will fully apply.

Article 155.

The Chief Justice will designate a Reporter for each matter to be discussed who will inform the Board submitting a resolution or decision proposal, unless the urgency of the matter prevents it or if in view of the slight relevant of the matter to be transacted, the Chief Justice in his judgment does not consider it necessary.

Article 156.

The Chief Justice of its own initiative, at the request of the Reporter or if the Board agrees will request a report from the Public Prosecutor in those matters in which it is to be party in the proceedings or if the nature of the matter makes it advisable. The Reporter in view of the report submitted by the Prosecutor's Office will inform the Board and advance his resolution proposal.

Article 157.

1. When the discussion of each matter has concluded, it will be voted on, beginning by the most junior judge or magistrate and by reverse order of seniority ending by the Chief Justice. Voting will be secret if so requested by any of its members.

2. A dissenting judge or magistrate may request his vote to be placed on record. If he wishes to do so, he may file his dissenting vote in writing with the reasons for the same which will be included in the minutes provided that he submits it within the next day to the one in which the resolution was passed

3. The Chief Justice will have the casting vote in the event of a draw.

Article 158.

1. The Secretary to the Board of Governance will record the matters transacted at the Board; he will be present in all discussions and voting sessions, drafting the minutes thereof which will include a reference to the corresponding proceedings; the Secretary will note in the margin the surnames of all attendees; he is responsible for the custody of records and minutes, issuing the corresponding certifications thereof.

2. Acts by the Board of Governance will be fully enforceable and may be appealed before the Council General of the Judiciary for their review. The provisions included in the Administrative Procedure Act will apply to them in default of any specific regulation.

Article 159.

1. Resolutions by the Boards of Governance will be recorded in a Minutes' Book under the custody of the Board Secretary and will not be public except following a request for disclosure by any person who has a direct, personal and legitimate interest.

2. Notwithstanding, resolutions on the distribution of cases between Sections and Courts of a jurisdictional division will be sufficiently publicised.

CHAPTER II Chief Justices of High Courts of Justice and Provincial Courts

Article 160.

Chief Justices will have the following functions:

1. Convene, preside and coordinate discussions of the Board of Governance.

2. Determine the agenda for the meetings of the Board of Governance including any items which have been proposed by at least two of its members.

3. Submit any proposals they consider appropriate which is of the competence of the Board of Governance.

4. Authorise by means of their signature the resolutions of the Board of Governance and monitor their compliance.

5. Monitor compliance of measures adopted by the Board of Governance to correct any defects in the administration of justice if within their sphere of competence and otherwise propose whatever is deemed appropriate to the Council General.

6. Prepare reports as requested by the Council General of the Judiciary.

7. Adopt the necessary measures when urgent situations call for this informing about them in the first meeting of the Board of Governance.

8. Coordinate inspection of Courts and Tribunals in the manner foreseen in this Act.

9. Determine the distribution of cases between divisions of the same jurisdictional order and among their sections pursuant to the rules approved by the Board of Governance.

10. Preside on a daily basis the meetings of Chief Justices of Divisions and Judges and ensure that their staffing complies with article 198 of this Act.

11. Exercise all powers to ensure an adequate functioning of the respective Court or High Court, and ensure that all personnel working thereat comply with their duties.

12. Notify the General Council of judicial vacancies and other vacancies for staff working for the judicial system.

13. Hear complaints made by parties in legal proceedings and suits adopting the necessary measures.
14. Any others foreseen by law.

Article 161.

1. The Chief Justice of the High Court of Justice holds the legal representation of the Judiciary in the respective Autonomous Community unless the Chief Justice of the Supreme Court has jurisdiction in that territory.
2. The Chief Justice of the Division mentioned in Article 78 of this Act represents the Judiciary in those provinces to which its jurisdiction refers, except if the jurisdiction of the High Court of Justice or the Supreme Court also extends to that territory. In the event that pursuant to the aforementioned article, contentious-administrative and labour divisions exist, such representation will be vested in the Division Chief Justice designated by the Council General of the Judiciary.
3. The Chief Justice of the High Court of Justice may delegate in the Division mentioned in the preceding article those governance functions it deems expedient referred to the corresponding division or divisions and to the judiciary bodies which have their seat in the province or provinces in which they exercise their jurisdiction.

Article 162.

The Chief Justices of the Supreme Court, the National Court, the High Courts of Justice and the Provincial Courts and where applicable, their respective Boards of Governance may address lower Courts and Tribunals within their respective jurisdiction and in the field of their competencies any guidelines they consider necessary for a better functioning of Courts and Tribunals informing the Supreme Court immediately and where applicable, the Council General of the Judiciary.

Article 163.

In the Supreme Court and other direct supervision of its Chief Justice, a Technical Department of Documentation and Information will exist. The Ministry of Justice having heard the Board of Governance of the Supreme Court and following a report by the Council General of the Judiciary will determine its structure and staffing

Article 164.

Chief Justices of the Provincial Courts who preside them will adopt adequate measures to ensure their operation and will exercise all other functions vested in them by this Act notwithstanding the faculties of the governing bodies of the High Court of Justice.

CHAPTER III Chief Justices of Divisions and Judges

Article 165.

Chief Justices of Divisions and judges will have within the sphere of their respective judiciary bodies full control and right to inspect all matters adopting within their competencies any resolutions that favour an adequate progress of the administration of justice informing the respective Courts and Tribunals of deficiencies or infractions observed; likewise they will exercise disciplinary functions in the terms foreseen in procedural laws on professionals who appear before the Court. Personnel ascribed to the division or to the Court will be subject to their corresponding disciplinary framework.

CHAPTER IV Doyen Judges and Judges' Assemblies

Article 166.

1. In districts in which there are more than ten Courts, incumbent judges will choose amongst them by majority of three fifths a doyen judge. If the foregoing quorum is not obtained in the first voting session, simple majority shall suffice for the second one, and in the event of a draw the candidate highest in rank will be appointed doyen judge.

The aforementioned election must be renewed every four years when the appointee resigns for any reason.

2. In those districts with less than ten Courts, the doyen judge functions will be performed by the most senior judge or magistrate in the judicial hierarchy.

3. Exceptionally when circumstances attached to doyenship activities warrant it, the Council General of the Judiciary after having heard the Judges' Assembly may discharge the incumbent judge fully or in part of the workload of his Court.

Article 167.

1. In those districts in which there are two or more Courts of the same division, cases will be distributed between them according to the existing rules on the matter. Allocation of cases rules will be approved by the Board of Governance of the High Court of Justice following a proposal of the Judges' Assembly for that district. At the request of the interested party, the Judges' Assembly may propose that a Judge in charge of distributing cases may be released fully or in part of his own workload for a better provision of justice. This resolution will be submitted to the Board of Governance for the latter to approve it if it considers it appropriate.

2. Distribution of cases is made under the supervision of the Doyen Judge assisted by a Secretary and he will have internal decision-making powers to resolve on any issues which may arise and correct any incidents detected adopting whatever measures may be required and exacting when applicable the responsibility attached to those actions.

Article 168.

1. Doyen judges will ensure that Court buildings and property are properly used, that the duty magistrates court operates at all times; they will adopt urgent measures with regard to cases which have not been allocated in the event that otherwise some rights would be breached or an irreparable or serious damage would ensue; they will hear complaints by the parties in the course of judicial proceedings and suits adopting the appropriate measures and they will exercise any and all other functions vested in them by law

2. In any event Doyen Judges are vested with the following duties:

a) Resolve in sole instance all administrative appeals filed against decisions by Court Clerks on distribution of cases.

b) Inform the Board of Governance of any incidents in the functioning of procedural services within their territory.

c) Solve any appeals which they are to hear in the terms established by the law.

Article 169.

The Doyen Judge will hold before the public authorities the legal representation of all judges of the district and will preside the Judges' Assembly in order to discuss issues which are of the common interest concerning the judiciary activity of all or some of the incumbent judges. This Assembly must be convened by the Doyen Judge when so requested by one fourth of the judges of that district.

Article 170.

1. The judges of each jurisdiction may gather in an Assembly under the chairmanship of the Doyen Judge in order to propose rules as to the distribution of cases, unify criteria and make practice statements and to discuss common issues or which they consider necessary to submit to the corresponding Board of Governance or to the Council General of the Judiciary by means of the Chief Justice of the High Court of Justice or if the latter has requested a report from them.
2. The Doyen Judge will also convene a meeting when considered necessary or appropriate by at least one fourth of the members entitled to attend.
3. Judges of the same province or Autonomous Community may also gather in an Assembly presided by the most senior judge of that district in order to debate common matters.
4. The Assembly is considered validly convened to pass decisions on matters submitted to it when more than half of its members are present thereat. Resolutions will be adopted by simple majority.
5. The Assembly will choose one of its members as the Secretary who is responsible for drafting the minutes of the resolutions passed at the meetings, keep the records and issue the corresponding certificates.

CHAPTER V Inspection of Courts and Tribunals

Article 171.

1. The Council General of the Judiciary has superior supervisory and inspection discretions on all Courts and Tribunals to verify and control the functioning of the administration of justice.
2. The Chief Justice of the Council and its Members following a resolution by the Plenary Meeting may conduct informative visits to those bodies.
3. The Council or the Chief Justice, when deemed necessary, may order the Inspection Department under its supervision, or the Chief Justices, Judges or Magistrates or any Court or Tribunal to conduct inspection of Courts and Tribunals or to obtain information on the functioning and compliance of their duties by the judiciary staff.
4. The Ministry of Justice when deemed appropriate may request the Council to order the inspection of any Court or Tribunal. In this case, the Council will notify the Ministry of Justice about the resolution adopted and of the measures in place, when appropriate. All the foregoing shall not prejudice the faculties vested in the Public Prosecutor by this Act.

Article 172.

1. The President of the Supreme Court is in charge of the ordinary supervision and functioning of the Divisions and Sections of this Court.
2. The Chief Justices of the High Courts of Justice exercise the same faculties in the territories of their jurisdiction.
3. The Chief Justice of the National Court has the same faculties as the aforementioned officers with regard to its Divisions and to the Central Courts.
4. The Chief Justices of the Provincial Courts may exercise by delegation inspection faculties on courts and tribunals within their territory and other administrative functions entrusted to them.

Article 173.

Inspection duties will be entrusted to the Judge or Magistrate of equal or higher rank that the incumbent holder of the judicial body being inspected.

Article 174.

1. Judges and Chief Justices of Divisions and Sections will conduct their inspection duties on the matters of their competence.
2. When in their judgment they consider that to avoid any abuse it would be advisable to adopt any measure outside their competence or conduct any visits to a Court or a Tribunal they will report this matter to the President of the Supreme Court, the Chief Justice of the National Court or the Chief Justice of the High Court of Justice for their decision

Article 175.

1. Judges and magistrates and personnel performing duties within the judicial system must provide the necessary cooperation for the adequate performance of the inspection.
2. Inspection faculties will be carried out notwithstanding the authority of the Magistrate, Judge or President.
3. The inspection proceedings may be completed with reports from the inspected body which may be submitted by the respective associations of legal practitioners and court attorneys in all that bears relation with them. To that purpose, they will be notified sufficiently in advance on the circumstances surrounding the inspection activities.

Article 176.

1. Inspection comprises examination of all issues necessary to assess the adequate functioning of the Court and Tribunal, compliance of their duties by the judicial staff in view of a speedy and efficient handling of legal proceedings.
2. Construction and application of statutes by Judges or Courts in the course of their duties may not be subject to approval, sanctioning or amendment following any inspection activities.

Article 177.

1. The Magistrate or Judge who conducts the inspection will prepare a report which shall be forwarded to the officer requesting it.
2. Inspection visits will be recorded in their minutes stating the results of said inspection and providing a copy of it to the judge or president of the inspected judicial body. These officers once in possession of the minutes may lodge further remarks or pleadings before the authority which had ordered the inspection within the ten next days of its completion.
3. The President of the Board of Governance which has been notified of this shall adopt in view of the report any measures which he considers appropriate within the framework of his competencies and if the measures exceed his jurisdiction, he will submit his proposal to the Council General of the Judiciary. Such communication to the Council General will be made through its President. When the Council General has ordered the inspection then it will adopt whatever measures it deems expedient thereon

CHAPTER VI Head Registries

Article 178.

1. Head Registries will be created in the Supreme Court, the National Court and the High Courts of Justice which will report to the corresponding Governance Secretary who will be aided by staff working in the judicial system as determined by the corresponding Staffing Provision.
2. In these Courts, a Governance Vice-secretary may be appointed.

VOLUME III Functioning of Courts and Tribunals

PART I Timetable for Judicial Proceedings

CHAPTER I – Ordinary judicial period

Article 179.

The judicial year, the ordinary period of activity of the Courts will commence on September 1st or the first working day and will end on July 31st of each calendar year.

Article 180.

1. During the period in which the Courts interrupt their ordinary activity, a Division will be created thereat comprising the Chief Justice of the Court and a number of judges determined by the Council General of the Judiciary which will assume the governance and judicial functions ensuring that judges from different divisions are included.
2. Judges who are not part of this Division may take leave of absence once they have completed the scheduled hearing as from the last day of the ordinary period of activity.

Article 181.

1. The beginning of the judicial year will be inaugurated by a solemn opening at the Supreme Court.
2. The President of the Council General of the Judiciary and of the Supreme Court will read during the opening the Report on the state, functioning and activities of Courts and Tribunals.
3. The State Prosecutor will also read in this act his report on the activities of the Prosecution Office, delinquency ratios, prevention of offences and envisaged reforms for a more efficient administration of justice.

CHAPTER II Clear days for judicial proceedings

Article 182.

1. Saturdays, Sundays, December 24th and December 31st, Bank Holidays and holidays in the territory of the Autonomous Community or judicial district are days in which the Courts are closed. The Council General of the Judiciary by means of a regulation may waive such prohibition for certain judicial proceedings in those cases which are not expressly established by law.
2. The working hours of the Courts are from eight in the morning to eight in the evening, except as otherwise provided by law.

Article 183.

The days of the month of August are considered unfit for any judicial proceedings except in the event of urgency as determined by procedural laws. Notwithstanding, the Council General of the Judiciary may waive such prohibition to the purposes of other proceedings.

Article 184.

1. Notwithstanding the provisions of the foregoing articles, all days of the year and all hours of the day are apt for conducting criminal proceedings without any special authorization.
2. Days or hours which are not considered fit for judicial proceedings may be waived by a judge or a court in compliance with the provisions of procedural laws.

Article 185.

1. The term of procedural activity will be reckoned in compliance with the Civil Code. If reckoned by days, only clear days will be considered.
2. If the last day of the procedural term is a holiday, it will be deemed extended to the immediately next clear day.

SECTION II Court Hearings

CHAPTER I PUBLIC HEARINGS

Article 186.

Courts and Tribunals will hold public hearings all clear days for the discovery of evidence, hearings of suits and legal proceedings, reporting judgments given and other acts foreseen by Law.

Article 187.

1. In public hearings, Court meetings and other solemn official acts, Magistrates, Judges, Court Clerks, Prosecutors, Lawyers and Barristers will wear a robe and when applicable any decorations or insignia of their rank.
2. Likewise they will all be placed at the same height in the bench.

Article 188.

1. Judges and Chief Justices of Courts and Tribunals within the limits established by the Council General of the Judiciary will determine the public hearing hours to ensure that all judicial proceedings are carried out without undue delay. Notice of hearings will be posted on the outside wall of the courtroom.
2. Magistrates and Judges which are part of a division will attend the hearings unless on justified leave of absence.

Article 189.

Magistrates, judges, chief justices, court clerks, and other personnel working for the judicial system must perform their activities in the terms required by the requirements of their duties notwithstanding which they will observe their working hours.

Article 190.

1. The Chief Justice of the Court or the judge is responsible for maintaining order in the courtroom and to that purpose he may resolve as deemed expedient.
2. Likewise, he will uphold the rights of those present.
3. These obligations will also vest in the Court Clerk with regard to all proceedings conducted solely with him at the offices of the Court.

Article 191.

To the purposes of the foregoing Article, whoever engages in disorderly behaviour in a suit, hearing or proceedings, making obvious signs of approval or disapproval, acting disrespectfully and with lack of consideration due to magistrates, judges, the Court, the Public Prosecutor, attorneys, barristers, court clerks, coroners or other members of the judicial staff, will be warned by the presiding judge and expelled from the courtroom or office if they do not heed the first warning notwithstanding any criminal liabilities exacted from them.

Article 192.

Individuals who resist the expulsion order will also be sanctioned with a fine, its maximum amount being the highest penalty foreseen in the Criminal Code for misdemeanours.

Article 193.

1. The same fine will be imposed on witnesses, experts or on any other person who either as party or legal representative of the latter evidence a disrespectful behaviour and lack of consideration either verbally or in writing or by their acts to judges, prosecutors, court clerks and other staff working at the courts, when these actions do not amount to a criminal offence.
2. Attorneys and Barristers are not included within the scope of this provision as they will be subject to the terms of Section V, Book VII hereunder.

Article 194.

1. The Court record will describe the actions leading to the sanction imposed indicating the explaining, if any, provided by the offender and the resolution adopted by the officer presiding the act.
2. The resolution imposing a sanction may be challenged by a revision appeal before the Judge himself, the Chief Justice or the Court clerk who will issue his decision the following day. The resolution on the revision hearing or against the sanction imposed may be appealed within five days by means of a review appeal if it has not been already been filed before the Board of Governance which will reach a decision on the appeal following a preliminary report by the Judge, the Chief Justice or the court clerk who imposed the first sanction in the first held by that body.

Article 195.

When the actions carried out amount to an offence the offenders will be arrested in the act and placed before the competent court.

CHAPTER II Judicial divisions and alternate judges

Article 196.

In those cases in which the law does not provide otherwise, three judges will suffice to create a division.

Article 197.

Notwithstanding the foregoing, all judges which are part of the division may be asked to sit at such division even if the law does not demand it if the Chief Justice, or a majority of judges consider that it is suits best the interests of justice.

Article 198.

1. Sections will be established by the Chief Justice on the basis of the criteria approved annually by the Board of Governance following a proposal of the former.
2. They will be presided by the Chief Justice of the Division, the Chief Justice of the Section or in default of them, by the most senior judge.

Article 199.

When there are not sufficient judges to make up a Division, other judges may be requested to sit in that division by the Chief Justice of the respective Court following a roster in which the those with no pending hearings will be preferred and among these, the most junior ones.

Article 200.

1. The Supreme Court, the National Court, the High Courts of Justice and the Provincial Courts may include a list of alternate judges who will be called up according to their position in the list within the jurisdiction for which they were appointed in order to sit at a division except if for unforeseen and exceptional circumstances there are not enough senior judges for a division, except if they are acting under secondment in the terms foreseen in this Act. Only one alternate judge may be called to sit at a division.
2. The Council General of the Judiciary at the beginning of the judicial year shall prepare the aforementioned list following a proposal from the corresponding Boards of Governance and pursuant to the terms of article 152 of this Act.
3. Within the limits of the request or secondment, alternate judges will act as members of the division in which they have been asked to sit with the same rights and duties as its incumbent judges.
4. Members of the Judiciary on retirement due to their age who are called to perform such duties will be referred to as Judges Emeritus. They may remain in this situation until they have attained seventy-five years of age being entitled to the same remuneration as alternate judges.
5. Supreme Court judges once they have been retired will be designated as Supreme Court Emeritus Judges if they so request it provided that they comply with the legal requirements for this and in view of support requested by the corresponding Division.

Article 201.

1. The position of alternate judge will be remunerated in the manner established by administrative regulations within the budget forecast.
2. Only those individuals who would qualify for the Judiciary may be appointed as such, except for the requirement of not being on retirement due to age. A person who has attained the age of seventy or who does not have at least fifteen years legal experience may not be admitted as an alternate judge.
3. Those persons who have performed judicial functions, acted as Court clerks or performed surrogate duties in the Public Prosecutor's Office with attested capacity, or individuals involved in the legal profession or teaching may be appointed provided that there are no other disqualifying circumstances. Under no event, attorneys or barristers may act as alternate judges.
4. The position of alternate judge is subject to the prohibitions and disqualifying circumstances foreseen in articles 389 to 397 of this Act. Excepting:
 - a) The provisions of Article 394 notwithstanding section 5) indent d) hereunder.

b) Disqualification based on legal teaching or research which under no account will apply regardless of their administrative status.

5. Alternate judges may be discharged for the same reasons as other judges and magistrates, when such circumstances apply to them. They will also resign from office:

a) If the term for which they were appointed elapses.

b) By resignation accepted by the Council General of the Judiciary.

c) If they reach seventy-two years of age.

d) Following a resolution of the Council General of the Judiciary when they are deemed unfit or unsuitable for office, or if they are under any disqualifying or incapacitating circumstance, in breach of a prohibition or if they do not comply with the duties of office in a diligent manner.

Article 202.

Appointment of judges who are not part of the division members will be notified immediately to the parties so that they may invoke waiver of jurisdiction or recusation pleadings

CHAPTER III The Reporter Judge

Article 203.

1. In each suit or proceedings filed before a Court or a Tribunal, a Reporter Judge will be designated according to the duty roster for that Division or Section at the beginning of the judicial year based solely on objective criteria.

2. Designation will take place in the first resolution issued in the course of the legal proceedings notifying the parties the name of the reporter Judge and where applicable, of the judge who will deputise for him according to the agreed duty roster, indicating the reasons for such replacement.

Article 204.

In the appointment of the Reporter judge all judges of the Division or Section will have their turn, including the respective Presidents.

Article 205.

The Reporter Judge is responsible in those suits or proceedings which have been already allocated for:

1. The ordinary duty of care in all stages of the proceedings.

2. Cross-examination in interrogatories, question sheets, and discovery of evidence requested by the parties and report on their appropriateness.

3. Preside over the examination of evidence deemed relevant to the suit when it is not be conducted before the panel of judges.

4. Inform of any appeals filed against resolutions of the Division or the Section.

5. Draft the writs related to interlocutory proceedings, judgments and other resolutions which are to be referred for discussion by the Division or the Section and give them their final draft if it agrees with what has been resolved on.

Article 206.

1. When the reporter disagrees with the majority vote he will decline drafting the judgment and he will state in writing the grounds for his dissenting vote.

2. In this case the Chief Justice will entrust the drafting of the resolution to another judge and will provide for the necessary rectification in the reporting roster to account for this disruption.

CHAPTER IV – Deputising

Article 207.

Magistrates and Judges may be replaced in the cases of vacancy, leave, special appointments and other circumstances which justify it. Replacements will be made in the manner established in this Chapter notwithstanding the provisions of this Act on the organization of divisions and sections within the Courts.

Article 208.

1. The President of the Supreme Court, the Chief Justice of the National Court and the Chief Justices of the High Courts of Justice will be replaced by the most senior Division Chief Justice of the same Court. Notwithstanding the foregoing, the Board of Governance will be convened and presided by the most senior division Chief Justice even if he belongs to a different court.
2. Chief Justices of Provincial Courts will be replaced by the most senior Division Chief Justice, and in default of such officer, by the highest ranking judge thereat.
3. When the staffing of the Provincial Court only accounts for one Chief Justice, the incumbent judge in the roster to deputise for him will replace him.

Article 209.

1. Chief Justices of divisions and sections will be replaced by the highest ranking judge in that division or section.
2. In the event of any vacancy, the Presidency of the division will fall on the Chief Justice of the Provincial Court of Tribunal if he considers it appropriate.

Article 210.

1. Magistrates of First Instance and Examining Courts, of Commercial, Criminal, Domestic Violence, Contentious-Administrative, Juvenile and Labour Courts will deputise for one another in those districts in which there are several courts of the same jurisdiction in the manner provided by the Board of Governance of the High Court of Justice following a proposal by the Judges' Association.
2. If the Doyen Judge must be replaced in his duties, these will be performed by the surrogate judge in the court in which the former is the incumbent holder in the terms of the preceding paragraph or when applicable, he will be replaced by the most senior incumbent judge thereat.

Article 211.

1. When in a district there is no other Judge of the same jurisdiction who may act as his surrogate, replacement will fall on a judge of another jurisdiction.
2. Judges from other jurisdictions will also have surrogate duties even if there are several judges in the same jurisdiction, when replacement options between them have been exhausted.
3. First Instance and Examining Magistrates will replace judges from other jurisdictions and from juvenile courts when they may not be replaced by judges from the same jurisdiction.

Replacement of criminal jurisdiction judges will be vested in the case foreseen in Article 89 hereunder in First Instance Magistrates. In all other cases, Criminal magistrates and First Instance and Examining Magistrates will be replaced by Commercial, Juvenile, Contentious-Administrative and Labour Magistrates following the order determined by the Board of Governance of the High Court of Justice.

Domestic Violence Magistrates will be replaced by First Instance and Examining Magistrates according to the order determined by the Board of Governance of their respective High Court of Justice.

Article 212.

1. Judges will perform their duties attached to their appointment to a Court wither as incumbent or assistant judges and the surrogate duties entrusted to them. Surrogate duties will be remunerated where applicable in the amount established by the corresponding regulations.

2. In those cases in which to replace the incumbent judge of a court regardless of the jurisdiction to which he belongs to, it becomes impossible to comply with the aforementioned articles because only one court exists in the vicinity, or due to incompatible hearings' schedule, or if there are too many vacancies or due to any other similar circumstances, jurisdiction will be exercised with the same extent as if the incumbent holder of the judicial body was a surrogate judge which will be appointed in the same manner as for alternate magistrates and subject to the same legal framework. These appointments are considered exceptional and their need must be clearly established and evidenced. In any event, replacement duties will preferably fall on assistant judges as provided in article 308(2) hereunder and for judges who are under supervised training as per article 307(1) hereunder.

3. By way of a regulation the Government will determine the remuneration of surrogate judges within the budgetary constraints. In the event that several surrogate judges are appointed for the same district and jurisdiction, they will be called depending on the score obtained in their appointment.

Article 213.

Judges of Peace will be replaced by their respective surrogate magistrates.

Article 214.

When the foregoing provisions may not be applied as no surrogate judges have been appointed who may deputise for judges in that district and for that jurisdiction, or if it is deemed advisable in view of a better handling of proceedings in view of the light workload of another court located in another district but of the same rank, the Board of Governance will extend the jurisdiction of the latter court following a hearing on this matter, whereby the incumbent holder will hold two offices and will be entitled to the corresponding remuneration within the budgetary limitations.

Article 215.

Any extension of the scope of jurisdiction will be notified to the Council General of the Judiciary for its approval although the judge may take office prior to that approval if deemed expedient by the Board of Governance.

Article 216.

1. No secondment in the interests of the service may be given to Courts or Tribunals except for a specified period of time if special circumstances concur and prior agreement with the incumbent holder.

2. Secondments will be authorised by the Council General of the Judiciary once the corresponding Board of Governance have been heard.
3. No secondment is possible for the positions of Chief Justice and Chief Justices of the National Court Division or of the High Courts of Justice nor for Chief Justice of the National Court.

CHAPTER IV bis Secondment measures for judicial bodies

Article 216 bis 1.

When exceptional delays or work accumulation in a certain court or tribunal may not be handled by increasing the staff of the judicial office or by exempting that court from the roster of new cases foreseen in Article 167 hereunder, the Council General of the Judiciary may adopt exceptional judicial support measures consisting in attaching as deputy or secondment magistrates, judges in training in the terms foreseen in Article 307 hereunder or granting secondment appointments to magistrates or judges, or in attaching surrogate or alternate judges so that they may share the workload with the incumbent holder in handling and entering a judgment on cases which are not pending.

If the delay is of structural nature, the Council General of the Judiciary together with the implementation of the aforementioned measures will file the appropriate proposals with the Ministry of Justice or with the Autonomous Communities which are competent in this area in order to adjust the headcount of the court or tribunal or reorganization of the judicial district or its organization.

Article 216 bis 2.

Judicial support measures which have to be submitted to the Council General of the Judiciary through the corresponding Boards of Governance must include:

First. Brief explanation of the background of that specific court or tribunal.

Second. Set out the grounds which have led to the delay or backlog.

Third. Description of the workload of the judicial body and number and type of pending matters.

Fourth. Updating plan for the Court and Tribunal explaining its temporary scope and restructuring project for the judge's duties or the support team whose duties with full jurisdiction shall be taken into account in the handling and resolution of all new cases or pending of public hearing; the incumbent judge or judges will continue handling on an exclusive basis all those suits which have not yet reached the aforementioned procedural stage.

Article 216 bis 3.

1. The Boards of Governance which implement support measures by means of secondment must give adequate publicity of this fact so that any magistrates or judges who may be interested in such appointment may submit their application.

2. In the event of several applications for the same secondment appointment, the corresponding Board of Governance when designating the candidate it considers most appropriate must take into account the following circumstances:

- a) If the candidate judge or magistrate belongs to the same jurisdiction as the Court or Tribunal for which secondment is to be provided.
- b) Location and distance to destination of each candidate.
- c) The current situation of the court in which he acts as an incumbent judge.
- d) Knowledge of the legal system or language and of substantive law specific to the Autonomous Community in which secondment is to take place.

In all cases in which the secondment proposal implies a discharge of duties, as a preliminary requirement for granting it, in the judgment of the Council General of the Judiciary following a report by the Board of Governance of the High Court of Justice under whose jurisdiction that court that is to provide secondment has been placed, how the absence of the magistrate or judge will be provided for, the period of time in which it will take place and that such vacancy has been sufficiently provided for either by replacement or by any of the procedures foreseen in the legislation.

Such considerations will be duly reflected in the proposal made by the Board of Governance which must also indicate if the secondment magistrate or judge has accepted it and if he is to be discharged or not of his functions at his own court.

3. Any secondment proposal must clearly specify if it has been granted on the basis of satisfying allowances and travel allowances and the corresponding remuneration.

Article 216 bis 4.

Secondments and mission appointments of alternate judges and magistrates will be applied for and granted within the maximum period of six months reckoned from the date in which the designees were appointed to the courts or tribunals which requested secondment.

Notwithstanding, if during the aforementioned term the intended updating has not been achieved, the measure may be implemented again for the same or lower term if that suffices for the envisaged normalisation.

Renewal proposals will comply with the same requirements as the ones foreseen for the initial judiciary support measures.

CHAPTER V Abstention and Recusation

Article 217.

The magistrate or judge which is under any legal disqualifying circumstance should abstain from hearing the suit without waiting for a formal recusation.

Article 218.

Recusation may only be made by:

- 1) In civil, labour and contentious-administrative proceedings by the parties and by the Public Prosecutor provided that the in view of the nature of the rights being discussed in the judicial proceedings its intervention would be desirable or mandatory.
- 2) In criminal proceedings, the Public Prosecutor, the Citizenship Prosecutor, the private prosecutor or complainant, the civil plaintiff, the indicted or accused, the offender, wrongdoer or tortfeasor.

Article 219.

Grounds for abstention or recusation, when applicable:

First. Marriage ties or similar de facto situation, kinship by consanguinity or affinity to the second degree with any of the parties or the Prosecutor's Office representative involved in the suit or legal proceedings.

Second. Marriage ties or similar de facto situation, kinship by consanguinity or affinity to the second degree with the legal counsel or the court attorney of any of the parties involved in the suit or legal proceedings.

Three. If the judge has held wardship or guardianship duties with regard to any of the parties or has been a ward or under the care of any of them.

Four. If a complaint or formal accusation has been made by any of the parties as the material author of an offence or an infraction, provided that such complaint or accusation has given rise to criminal proceedings and provided further that their outcome was not an absolatory judgment or the dismissal of the proceedings.

Five. If the judge has been sanctioned in the course of disciplinary measures requested or filed by any of the parties.

Six. If he has acted as legal counsel or representative of any of the parties, or has issued an expert report in the proceedings, or has acted in same as prosecutor, delivery expert testimony or as a witness.

Seven. If the judge has been the complainant or accuser of any of the parties.

Eight. If the judge has any pending proceedings with any of them.

Ninth. Intimate friendship or manifest illwill against any of the parties.

Ten. If he has a direct or indirect interest in the suit or in the proceedings.

Eleven. If he has taken part in the inquiry stage of the criminal proceedings or has issued a judgment in a former instance of the suit or legal proceedings.

Twelve. If any of the parties has been a subordinate of the judge who is to reach a decision on the matter.

Thirteen. Holding public office, or holding any office or employment whereupon the judge or magistrate has been directly or indirectly involved in the subject matter of the present suit or has taken part in other proceedings related to the latter.

Fourteen. In those proceedings in which the Public Administration is party to, if the judge or magistrate is in a similar position with regard to the public officer who issued the decision or reported on the same which gave rise to the proceedings as contemplated in the disqualifying circumstances 9, 12, 13 and 15 of this Article.

15. Marriage ties or similar emotional de facto relationship, kinship up to the second degree of consanguinity and affinity with the judge or magistrate who passed a resolution or who was involved in the proceedings leading to an appeal or to any subsequent stage of the proceedings.

16. If the judge or magistrate has held public office and in the course of the same he has been acquainted with the subject matter of the suit to the extent that it would be detrimental to an impartial judgment.

Article 220.

Among the grounds of abstention, and of recusation when applicable in those proceedings in which the Public Administration is party to, if the judge or magistrate is in a similar position with regard to the public officer who issued the decision or reported on the same which gave rise to the proceedings as contemplated in the disqualifying circumstances 1 to 8 and 11 to 12 of the preceding article.

Article 221.

1. The judge or the magistrate will inform of his decision to abstain from the proceedings to the Section or Division to which he belongs and with functional jurisdiction to hear any appeal against a resolution given by him. Notice of abstention will be filed in writing expressing the grounds for it as soon as the disqualifying circumstance concurs.

The competent body to decide on the abstention will issue its decision in the term of 10 days.

2. Abstention will suspend the course of the proceedings until a decision has been reached thereon or until the legal term to decide on it has elapsed.

3. If the Section or Division or the judicial body contemplated in paragraph (1) hereunder does not consider that such abstention is justified, it will order the judge or the magistrate, as the case may be, to continue hearing the case notwithstanding the rights of the parties to file for recusation.

Once the judge or the magistrate has received said instructions he will issue a court order lifting the stay on the proceedings.

4. If the abstention invoked is deemed justified by the competent body according to paragraph (1) hereunder, the judge under abstention will issue a writ resolving on his waiver of jurisdiction and decreeing that proceedings are to be submitted to the judge who is to replace him. When he is part of a collegiate body, the writ will be issued by the section or division to which he belongs. A writ on abstention is not subject to any appeal.

5. In any event, stay of proceedings will end when the judge the deputy judge receives the court files and roll or when he takes office in the collegiate body or division in which the former judge served.

Article 222.

Abstention and recusation motions will be notified to the parties including the name of the judge or magistrate who will replace the former judge.

Article 223.

1. Recusation must be proposed as soon as the circumstances leading to it are known, otherwise it will not be heard.

In particular, the following recusations shall be dismissed:

First. When they have not been filed within the term of 10 days since notice of the first resolution informing about the identity of the judge or magistrate who is under recusation was given, if knowledge of the grounds for recusation existed prior to that notice.

Second. When a recusation motion is filed pending proceedings if the grounds for recusation had been known prior to the procedural stage in which it is requested.

2. Recusation motions will be made in writing clearly indicating the legal grounds for it and attaching sufficient evidence of this. This motion must be signed by the legal counsel and the court attorney if they are part of the proceedings, by the party in question or by a third person if the latter is illiterate. In any event, the court attorney will attach special powers of attorney to file a recusation motion. If no legal counsel or court attorney are part of the proceedings, then the party filing for recusation must appear before the court clerk's office and ratify it.

3. Following a motion of recusation, the contents of same will be notified to the other parties in the proceedings who will have a joint term of three days to indicate if they agree or disagree with the recusation filed or if they are aware of any other grounds of recusation. A party who does not file for recusation at that time may not do so subsequently unless it clearly establishes that at that time it was not aware that the new grounds for recusation existed.

On the next business day following the expiry of the aforementioned term of three days, the judge who has been recused will state whether it accepts or dismisses the motion of recusation.

Article 224.

1. Recusation motions shall be heard by the following officers:

First. Recusation of Chief Justice or Supreme Court Justice, Senior judges of the National Court or of the High Court of Justice will be appraised by a judge of the Division to which the judge under recusation belongs to following a roster of judges listed by seniority.

Second. Recusation of Chief Justice of the National Court will be appraised by a judge of the Civil or Criminal Division of the High Court of Justice following a roster of judges listed by seniority

Third. Recusation of a Judge of a Provincial Court will be appraised by another Judge of the same court on the basis of a roster of judges listed by seniority provided that he does not belong to the same division as the judge under recusation.

Fourth. When all judges of a collegiate division are under recusation, appraisal of the motion will fall on a judge of the same court designated on the basis of a roster of judges listed by seniority provided that he is not also under recusation.

Fifth. Recusation of a magistrate or the incumbent holder of a non-collegiate office will be appraised by a judge of the collegiate body who would review his decisions on appeal according to a roster of judges listed by seniority.

Sixth. Recusation of Judges of Peace is appraised by the First Instance Judge of that judicial district and if there are several first instance judges, the one designated on the basis of a roster of judges listed by seniority.

Seniority is determined by rank in the judicial hierarchy.

2. In those cases in which it is not possible to comply with the aforementioned provisions, the Board of Governance of the corresponding Court will designate an examining judge ensuring that he should be higher in rank or at least have a longer term of service than the judge or magistrates under recusation.

Article 225.

1. Within the same day in which the term mentioned in Article 223, paragraph (3) above expires, or on the next working day, the suit or proceedings will be transferred to the surrogate judge and the recusation motion will be submitted to the court who is competent to hear this incident including the supporting evidence and documents.

2. Recusations which do not state the grounds for filing such motion will be dismissed and likewise if the documents mentioned in Article 223, paragraph (2) are not attached thereto.

3. If the judge under recusation accepts the motion, the plea will be solved without any further proceedings.

Otherwise, the examining judge if he accepts the motion of recusation will conduct the discovery of evidence within the term of 10 days in the terms he considers expedient and will then submit all the appraisal to the competent body which will resolve on the matter.

Once the motion appraisal has been received by the competent court, it will be submitted to the Public Prosecutor who will draft a report on this matter. Once the foregoing term has expired, regardless of whether the Public Prosecutor's report has been received or otherwise, a decision will be given on this motion within the next five days. No appeal may be made against the foregoing decision.

4. Recusation implies the stay of proceedings until the recusation motion has been solved except in the event of criminal suits in which the examining judge who legally replaces the judge under recusation will continue conducting the proceedings.

Article 226.

1. In proceedings which are conducted by means of an oral hearing regardless of the nature of the jurisdiction which hears the suit, and likewise in the case of infractions, if the judge under recusation does not accept in that hearing the grounds for recusation, the court proceedings will be referred to the examining judge and the main suit will remain in abeyance. The examining judge will summon the parties to appear before him a certain date and time within the next five days and

once he has heard the parties and conducted the discovery of evidence he will decide by means of a court order whether the motion of recusation will be upheld.

2. Recusation of judges or magistrates subsequent to the date of the hearing will comply with the provisions of articles 190 to 192 of the Civil Procedure Code.

Article 227.

Recusation motions will be heard by:

First. The division foreseen in Article 61 of this Act when recusation refers to the Chief Justice of the Supreme Court, of a Division or to two judges of the same division.

Second. The competent division of the Supreme Court when recusation refers to one of its judges. To these purposes the judge under recusation will not sit at the bench.

Third. The division foreseen in Article 69 hereunder when recusation refers to the Chief Justice of the National Court, of one of its divisions or to two or more judges of the same division.

Fourth. The competent National Court divisions when its judges are under recusation as provided by Article 68 of this Act.

Fifth. The Division mentioned in Article 77 of this Act when the Chief Justice of the High Court of Justice, the Chief Justice of any of its divisions or the Chief Justice of the Provincial Court with seat in the territory of the corresponding Autonomous Community are under recusation and likewise with regard to judges of the same division of the High Courts of Justice or two or more judges of the same Section within a Provincial Court. The judge under recusation may not sit in the bench and he will be replaced pursuant to the procedure established in this Act.

Sixth. The competent division of the High Courts of Justice when any of its judges is under recusation. To these purposes the judge under recusation will not sit in the bench.

Seventh. When the judge under recusation sits in a Provincial Court, the Provincial Court itself excluding the judge under recusation; if it has two or more Sections, the Section in which the judge does not sit or the section subsequent in number to the one in which the judge under recusation sits will hear the motion.

Eight. Recusation motions referred to a Magistrate of a First Instance or Examining Court, of a Commercial, Examining, Criminal, Juvenile, Parole, Contentious-Administrative or Labour Courts will be heard by the corresponding section of the Provincial Court or by the division of the High Court of Justice which hears their judgments on appeal and if there were several of them, a roster will be created starting by the section or division with the lowest number.

Ninth. If the judge under recusation is a Justice of Peace, the motion will be heard by the examining judge for that motion.

Article 228.

1. The writ dismissing the motion of recusation will decree that the suit or claim are to be heard by the judge under recusation at the current stage of legal proceedings, court costs will be imposed on the party who filed for recusation except if exceptional circumstances concur which merit a different award. An order entered with regard to the recusation motion providing that the party had filed it in bad faith, may lead to a fine between 180 and 1,600 euro.

2. If the writ considers that there are grounds for recusation it will provide that the judge under recusation may no longer continue to hear the suit or claim. The surrogate judge established by law will continue hearing the legal proceedings.

3. No appeal made be filed against a decision rendered in a motion of recusation notwithstanding it may be invoked in the appeal made against the judgment finally given in the suit or legal proceedings moving for their annulment considering that the judge or magistrate who gave that judgment or which sat at the bench of a section or division was under the grounds of recusation alleged.

PART III Court proceedings

CHAPTER I Oral hearings, publicity and official language

Article 229.

1. Judicial proceedings will be chiefly oral particularly in criminal matters, notwithstanding their documentary support.

2. Affidavits, interrogatories, testimonies, cross-examinations, investigations, reports, ratification by expert witnesses and hearings will be conducted before the judge or the court and when applicable the parties will be summoned thereto in a public hearing, except as otherwise provided by law.

3. These proceedings may be conducted by videoconference. or any other similar system which allows for two-way communication and simultaneous relay of sound and image providing visual, hearing and verbal interaction between persons or groups located at different places, ensuring at all times that the parties may discuss with each other and upholding at all times the right of defence, all of which in the terms provided by the judge or the court.

In these cases, the court clerk of the court or tribunal which agreed on that system will certify from the seat of the court itself the identity of the persons who are to take part by means of videoconference either by prior submission or exhibition of documents, or because the appearers are personally known to him or by any other suitable procedural system.

Article 230.

1. Courts and Tribunals may use whatever technical, electronic, IT and distance communication systems they deem expedient for the furtherance of their activities and the exercise of their functions subject to the limitations established in Public Act 5/1992, October 29th, and other applicable laws.

2. Documents issued by means of the following systems regardless of their support will have the same validity and efficacy as an original document provided that their authenticity and integrity is observed and that it complies with the requirements foreseen in procedural laws.

3. Proceedings conducted by means of computerised technologies will guarantee adequate identification and exercise of judicial duties by the competent body, as well as confidentiality, privacy and safety of personal data in the terms established in this law.

4. Persons who request the judicial protection of their rights and interests may communicate with the jurisdictional bodies by means of the technical systems mentioned in paragraph (1) hereunder, when compatible with the available resources at Courts and Tribunals and moreover when guarantees and requirements contemplated in the legal proceedings in question are complied with.

5. The Council General of the Judiciary will issue regulations on requirements and other terms and conditions governing the creation and management of automated data files held under the responsibility of judicial bodies in order to ensure compliance with Public Act 5/1992, October 29th -Personal Data Treatment.

Computer programs and applications used in the administration of justice must be previously approved by Council General of the Judiciary which will guarantee their compatibility.

IT systems used by in the administration of justice must be compatible between them in order to facilitate their communication and integration in the terms established by the Council General of the Judiciary.

Article 231.

1. In all judicial proceedings, Judges, Magistrates, Prosecutors, Court Clerks and other officers at the Courts and Tribunals will use the Spanish language which is the official language of Spain.
2. Judges, Magistrates, Prosecutors, Court Clerks and other offices at the Courts and Tribunals may use the official language of the Autonomous Community if none of the parties opposes to it being used invoking that it might lead to defencelessness.
3. The parties, their legal representatives, legal counsel, witnesses and experts may use also the official language of the Autonomous Community in which territory the proceedings are being conducted both in their oral and written statements.
4. Judicial proceedings conducted and documents submitted in the official language of an Autonomous Community in which territory the legal proceedings take place will have full validity and efficacy without having to be translated to the Spanish language. Their translation will be decreed by the Court itself when they are to produce effects outside the jurisdiction of the Autonomous Community except if such effects refer to an Autonomous Community which shares the same language. Their translation will also be necessary when so established by statutory provisions or at the grounds of a party invoking defencelessness.
5. In oral proceedings, the Court or Tribunal may appoint any individual as the translator or interpreter previously requesting that he takes an oath or makes a solemn undertaking.

Article 232.

1. Judicial proceedings will be public except as otherwise provided in procedural laws.
2. Exceptionally, for reasons of public policy or of protection of public rights and freedoms, the Courts and Tribunals may limit the scope of their publicity and decree the secrecy of all or part of the proceedings, stating the grounds for this decision.

Article 233.

Deliberations of judges will be secret. Voting results are also secret except as otherwise provided in this Act regarding dissenting votes.

Article 234.

1. Court clerks and other competent officers at the Court's Register will provide the interested parties the information they may request on the current status of judicial proceedings which they may examine and become aware of unless they are secret in the terms established by law. They will also issue the certificates and transcriptions in the terms provided by this Act.
2. Likewise, the parties and any individual which establishes a legitimate interest thereon will be entitled to a standard copy of pleadings and documents included in the court file which are not marked as secret or subject to restricted access.

Article 235.

The interested parties will have access to books, files and judicial records which are not restricted as provided by law in terms of their exhibition, testimony or certification.

Article 236.

1. Publicity of court notices will be deemed carried out by including them in the Official Gazettes in the terms provided by the appropriate procedure laws.

When it has been expressly authorised, publicity and notices may be replaced in the terms established in enabling regulations by the use of electronic, information technology and long distance communications systems.

2. Publication by any other procedure may be authorised at the request and cost of the party requesting it.

CHAPTER II Procedural stages

Article 237.

Except as otherwise provided by Law, the judge will provide for the furtherance of all procedural stages by entering the corresponding orders.

CHAPTER III Voidance of judicial acts

Article 238.

Procedure acts will be null and void in the following cases:

One. When they take place by or before a court which is not the competent one or lacks jurisdiction in terms of subject matter or functional capacity.

Two. When carried out under duress or threat.

Three. When the basic rules of procedure have not been observed provided that this may have caused defencelessness.

Four. When carried out without the assistance of a legal counsel when it is mandatory by law.

Five. When hearings are conducted without the mandatory presence of the Court Clerk.

Six. In all other cases established by procedural laws.

Article 239.

1. Courts which have been forced to act under duress or threat, once they are released from such situation will declare that all proceedings arising therefrom are null and void, filing action against the persons who perpetrated these acts and informing the Public Prosecutor of this.

2. Acts by parties or persons involved in the proceedings carried out under duress or threat will also be declared null and void.

Voidance of these acts entails that all other acts which may be related, subordinated or influenced in a substantial manner by the voided act are also considered null and void.

Article 240.

1. Null and void proceedings in any case and formal defects in procedural acts which entail a lack of essential requirements in them to achieve their intended purpose or which entail defencelessness, will be invoked by means of the appeals established by law against resolutions entered or by any other means foreseen by procedural laws.

2. Notwithstanding the foregoing, the court or tribunal may ex officio or at the request of the parties, prior to entering a decision which ends the proceedings, and provided that they may not be amended, declare that all or some of the proceedings are null and void.

Under no event a court or a tribunal following an appeal decree ex officio that proceedings not contemplated in the scope of the appeal are null and void unless it considers that the court lacked functional or subject-matter jurisdiction or had acted under duress or threat.

Article 241.

1. No interlocutory pleas may be filed for the nullity of proceedings. Exceptionally, however, the legitimate parties or who should have that condition, may request in writing the voidance of all proceedings based on formal defects which have led to defencelessness or to an unjust decision provided that in each case no ordinary or extraordinary appeal exists.

The same Court or Tribunal who gave the final ruling will be competent to hear this incident. The term to file for nullity of proceedings is twenty days since the judgment was notified or in any event since the party became aware of the defect causing defencelessness and in this case after five have elapsed since the decision was entered it will become statute-barred for any plea of nullity.

The court or tribunal will dismiss any request by issuing a court order providing succinct grounds for dismissing the incident which attempts to raise other matters. A resolution dismissing a request is not subject to further appeal.

2. If the pleading for nullity is admitted based on the legal vices mentioned in the preceding section of this Article, the judgment or sentence not subject to further appeal will not be suspended, except if enforcement is expressly stayed to avoid that the plea may lose its purpose, and said pleading together with a copy of the documents attached to it, if any, establishing the procedural flaw or defect, will be served to the other parties within the joint term of five days so that they may make any allegations thereon and attach whatever documents they consider relevant.

If nullity is upheld, proceedings will be reinstated to the time immediately prior to the defect which led to the declaration of nullity and the legally established procedure will be followed. If the plea of nullity is dismissed, all court costs arising from the incident will be awarded to the party who filed for it and in the event that the court or tribunal considers that the party acted in an imprudent manner, it may impose a fine ranging from 60 euro to 600 euro. Against the resolution which decides on the incident no further appeal is available.

Article 242.

Judicial proceedings conducted outside the appointed time for them may only be voided if the nature of the term or deadline itself provides for it.

Article 243.

1. Nullity of an act will not imply that subsequent acts are also voided if they are independent from it or if their content would not have varied even if the infraction which led to the declaration of nullity had not been made.

2. Partial nullity of act will not extend to those parts of such act which are independent from the one which was defeated.

3. The court or tribunal will provide for the amendment of any defects detected in the procedural acts of the parties provided that such acts reveal the intention of the parties to comply with the requirements demanded by law.

4. Acts by the parties which lack the requirements established by law may be amended subject to the cases, conditions and cases foreseen in procedural laws.

CHAPTER IV – Judicial resolutions

Article 244.

1. Resolutions given by courts in chambers, or by the Board of Governance or administrative resolutions issued by Judges and Chief Justices will be referred to as decisions.
2. The same term will be used for warnings and corrections given to individuals subject to disciplinary correction of that jurisdiction in the course of judgments or other judicial acts.

Article 245.

1. Resolutions by courts and tribunals of jurisdictional nature will be referred to as:
 - a) Orders when their purpose is the furtherance of proceedings.
 - b) Writs when they resolve on appeals against court orders, incidents, procedural presumptions, nullity of proceedings or when by virtue of procedural laws they must be issued in that manner.
 - c) Rulings/Judgments when they provide a final resolution to the suit or proceedings in any instance or appeal or when pursuant to procedural laws they must be given in this manner.
3. Rulings may be delivered orally when so allowed by law.
4. Final rulings are those which are not subject to leave of appeal, or extraordinary revision or review in the terms provided by law.
5. An enforcement writ is a public and solemn document which includes a final ruling. Enforcement writs are issued in the name of the King of Spain.

Article 246.

In those cases in which the law requires that the Court clerk should draft a resolution proposal, the Judge may then adopt the procedure of agreeing with the proposal made or deliver his own judgment.

Article 247.

Judicial resolutions delivered orally must be recorded in the Court roll in the case of oral hearings, hearings of suits and other legal proceedings and in any other solemn acts which require their placing on record.

Article 248.

1. The form of a court order will be limited to stating the terms of the matter decreed and the name of the judge or court who has decreed it without any further legal considerations nor additions, the date, signature or seal of the judge or the Chief Justice and the signature of the Court clerk. Notwithstanding they may provide succinct reasonings without being subject to any legal formality if deemed expedient.
2. Writs must include legal reasoning set out in separate paragraphs, numbering the findings and legal considerations and finally the decision entered. They will be signed by the magistrate or judges who issued them.
3. Judgments will be given stating the findings in a subsequent order after the main heading the findings, facts as found, legal considerations if any, and finally the judgment entered. They will be signed by the magistrate, judge or judges who issued them.

CHAPTER V Hearings, voting procedure and resolution

Article 249.

Hearing for different matters at the Court will be set as they become completed except if the law provides otherwise.

Article 250.

The Chief Justice of the Division or of the Section will set the dates for hearings or similar procedure and the beginning of the sessions for the oral hearing.

Article 251.

1. The judge or the reporter will have the court roll at their disposal in order to enter a judgment or issue a resolution on any incidents or appeals.
2. The Chief Justice and the judges may examine the court roll at any time.

Article 252.

1. Once the oral hearing of the proceedings, main suit or claim has concluded, or from the appointed date for voting and passing a judgment any of the judges may request the court rolls for their examination.
2. When several judges request the court rolls, the presiding judge will determine the term given to each of them for their examination to ensure that judgments are entered within the established term.

Article 253.

Writs and judgments will be discussed and voted on immediately after the hearings and if this were not possible, the Chief Justice will establish a date for voting within the appointed term to deliver a judgment.

Article 254.

1. Voting, as the Chief Justice deems appropriate, may take place separately on different findings or legal issues or on part of the decision which must be rendered.
2. The reporter judge will vote first followed by the other judges commencing by the most junior ones. The Chief Justice will be the last judge to vote.
3. Once the voting session commences, it may not be interrupted except on force majeure grounds.

Article 255.

1. Writs and judgments will be given by absolute majority of votes except if the law provides for a higher quorum.
2. Under no event a certain number of votes may be required which modifies the majority rule.

Article 256.

When a judge or a magistrate has been transferred, the judge or magistrate will discuss, vote, draft and sign the judgments, as may be applicable, referred to those proceedings which oral hearing he

has attended and have not been decided on yet, except if he is under any disqualifying circumstance or the hearing must be voided for any other reason.

Article 257.

1. If during the hearing and prior to voting a judge becomes incapacitated whereby it is impossible for him to attend, he will provide his vote in writing with the grounds for his decision and submit it to the Chief Justice.
2. If he is unable to write or to sign, he will give his vote directly to the Chief Justice.
3. A vote so cast will be attached to the other votes and recorded with the countersignature of the Chief Justice in the Court Roll.
4. When the incapacitated judge is unable to vote even in that manner, the suit or the proceedings will be voted on by those non-incapacitated judges who were present at the hearing, and if there is sufficient quorum, they will then issue the corresponding judgment.

Article 258.

When there is not sufficient quorum to cast a valid vote in the terms demanded by article 255, the suit will be examined again and the judge who has incapacitated, suspended or removed from office will be replaced in the manner provided by the legal provisions thereon.

Article 259.

Judgments will be signed by the magistrate or by the non-incapacitated judges within the appointed term to deliver a judgment.

Article 260.

1. Any judge who takes part in the voting session of a final judgment or a writ will sign the resolution finally passed even if he dissents from the majority opinion but at the time of voting or signing the decision he may issue a dissenting vote cast in the manner of a judgment in which he may accept by reference the findings incorporated to the decision given by the bench which he agrees with.
2. The dissenting vote will record the signature of the judge casting it and shall be included in the court roll and notified to the parties with the decision approved by the majority of the bench. When it becomes mandatory by law to publish the judgment, the dissenting vote must be included next to it.
3. A dissenting vote may be given in the manner contemplated in the preceding paragraph insofar as applicable in writs issued in the course of interlocutory proceedings.

Article 261.

When after a judgment has been delivered by a Court a judge who took part in the voting session becomes incapacitated and is unable to sign, the Chief Justice of that court will sign it on his behalf indicating the name of the judge on whose behalf he signs under the words "he voted in the Bench but was unable to sign".

Article 262.

1. When the voting session on a judgment or a writ does not attain the required number of votes on any of the findings or legal issues which are necessary, the matter will be debated again and the disputed points which had dissenting votes will be voted again.
2. If no agreement is reached, the conflicting views will be reconciliated by means of a new hearing in which the original judges will attend and two more judges if the dissenting judges are an uneven number of three if their number was even. The first appointment for these additional judges will fall on the Chief Justice of the Division if he had not been present in the original hearing; in second place, judges from the division which did not attend the former hearing and in third place the Chief Justice of the Provincial Court and finally judges from other divisions, preferably those of the same jurisdiction by subject matter.

Article 263.

1. The judge who is to preside the Disputes Division will make the appropriate settings of hearings and appointments.
2. When the voting session of a judgment or a writ by the Disputes Division, or where applicable, the Plenary Session of the aforementioned division does not attain a majority of votes on the disputed issues, a new voting session will take place in which only the two views which held the largest number of votes will be voted on.

Article 264.

1. Judges of the different sections within the same Division will meet to issue statements of practice and coordinate procedural criteria. Meetings will be convened by the Chief Justice of the Division either at its own behest or following a request of the majority of judges, and in all other cases foreseen by law.
2. In any event the independence of the different sections for hearing and reaching a decision on the different suits under their jurisdiction will be fully preserved.

Article 265.

In each court or tribunal under the custody of their respective Court Clerk, the Court Roll will be kept which records all final judgments duly signed, writs not subject to further appeal and notice of the dissenting votes indicating who had cast them in correlative order by date of judgment.

Article 266.

1. Judgments once they have been passed and signed by the magistrate or the judges who gave them will be deposited in the Clerk's Office and any interested party will be given access to them. Access to contents of a judgment, or certain matters within them may be restricted when they bear on issues which affect the right to privacy, rights of individuals that merit special protection or anonymity of victims or aggrieved parties, or in any other circumstance in view of a general interest to avoid that the judgments given may be used in a manner that breaches the law.
2. The Court Clerks will provide a verbatim transcription of the judgment given in any writs issued in connection therewith.

Article 267.

1. Courts may not amend judgments given after the date in which they were signed, but they may clarify any obscure issue and rectify material errors detected in them.
2. Clarifications mentioned in the preceding paragraph may be made ex officio within two working days following publication of the resolution or at the request of the parties or of the Prosecutor filed within the same term, and in this case the court will resolve on the matter in the next three business days after the pleading was filed requesting clarification of the judgment.
3. Obvious material and arithmetical errors detected in any judgment may be amended at any time.
4. Omissions or defects found in judgments and writs which require their amendment in order to be fully enforceable may be amended by means of a writ in the same term and subject to the same procedure as the one set out in the preceding paragraph.
5. If we are before judgments or writs which have omitted any resolution on specific pleadings including the suit and duly invoked in the course of the proceedings, the court following a written plea by the party in question within the term of five days since the judgment was notified and after having informed of said plea to the other parties so that they may file allegations in the term of five days, may enter a decision resolving the pleading which had not been considered in the judgment given or dismissing the pleading.
6. If the court becomes aware in any judgments or writs given of omissions mentioned in the preceding paragraph, it may within the term of five days since the date they were issued ex officio complete the judgment given without however amending or rectifying the terms of the judgment originally given.
7. No appeal may be made against writs which decide on the clarification, amendment, rectification matters or supplementary issues in the terms mentioned in the preceding sections of this Article, notwithstanding any appeals available against the judgment or writ which refers to the pleading or to the ex officio proceedings conducted by the court.
8. Terms for appeals against the judgment given will be interrupted since their clarification, rectification, amendment or supplementing was requested and in any event will be reckoned again as from then next day in which a writ was notified acknowledging or omitting the specific decision and resolving or dismissing its amendment.

CHAPTER VI Place to conduct judicial proceedings

Article 268.

1. Judicial proceedings must be carried out at the seat of the judicial body.
2. Notwithstanding the preceding paragraph, Courts and Tribunals may be created in any part of the territory outside their jurisdiction in order to conduct judicial proceedings when it is deemed necessary or expedient in view of an adequate administration of justice.

Article 269.

1. Courts and Tribunals may hold trials or oral hearings outside the seat of the court when so authorised by law.
2. However, the Council General of the Judiciary, in view of certain circumstances or in view of an adequate administration of justice and at the request of the court or the tribunal may establish that the Courts and Divisions or Sections of Courts or Benches may be held at a different vicinity than where they have their seat provided however that it is located within the territory of their jurisdiction.
3. Likewise, the Board of Governance of the High Courts of Justice shall provide that Criminal judges assisted by the court clerk may hold oral hearings regularly in cities in which the Examining

Courts which were involved in the inquest of those criminal proceedings have their seat, provided that their move is justified on the grounds of a more adequate administration of justice or considering the number of criminal suits. The Examining Courts and their officers will provide in these cases all the necessary co-operation.

CHAPTER VII Notices

Article 270.

Judgments given by Courts and Tribunals and those issued by Court Clerks in the exercise of their functions will be notified to all parties of the suit, claim or legal proceedings, as the case may be, and also to those to whom the suit refers or may sustain damages thereon, when so provided in those judgments in compliance with the law.

Article 271.

Notices may be sent by ordinary mail, telegram or by any other communication system which provides acknowledgment of receipt and record that the main particulars of the judgment have been notified in the terms established in procedural laws.

Article 272.

An office may be created for common notices between different courts and tribunals of the same city, even if they belong to different jurisdictional divisions. In this event the Barristers' Association will set up a department in which notices may be received which have not been served in the joint office because the barrister who had to be notified did not make an appearance. Receipt of notice at this department will produce full legal effects.

CHAPTER VIII Judicial assistance

Article 273.

Courts and Tribunals will assist each other in their judicial duties.

Article 274.

1. Judicial assistance must be given when legal proceedings are to be carried outside the district of the court or tribunal which had ordered them or if these fall under the jurisdiction of another court or tribunal.
2. Request for judicial assistance regardless of the court or tribunal to which it is addressed must be made directly without any submissions or notices to intermediate judicial bodies.

Article 275.

Notwithstanding, judges may engage in any criminal inquiries in a territory outside the scope of their jurisdiction when it is close to theirs and it is deemed expedient by informing the incumbent judge of that district. Magistrates and judges from other jurisdictional divisions may also conduct inquiries or discovery of evidence outside the territory of their jurisdiction if it is not detrimental to the competencies vested in the incumbent judge and is justified by reasons of procedural economy.

Article 276.

International judicial assistance requests will be submitted to the competent authorities of the recipient State through the Ministry of Justice who will receive them from the Chief Justice of the Supreme Court, of the High Court of Justice or of the Provincial Court. They may also be submitted by consular or diplomatic channels directly if so established in the corresponding international treaties.

Article 277.

Spanish courts and tribunals will provide assistance to foreign judicial authorities for the furtherance of their duties pursuant to the international treaties and conventions which Spain is party to and in default of this, on the basis of reciprocity as set out in the following Article.

Article 278.

1. If reciprocity is established or if it is offered by the requesting foreign judicial authority, judicial assistance will only be refused by Spanish Courts and Tribunals:

First. When proceedings arise from a suit which is subject to the sole and exclusive jurisdiction of the Spanish Courts.

Second. When the contents of the act to be carried out do not correspond to the specific competencies of the notified Judicial authority. In this case, it will refer the application to the competent judicial authority informing of this to the requesting authority.

Three. When the communication included in the request does not meet the basic requirements to establish its authenticity or has been drafted in a language other than Spanish.

Four. When the subject matter of the cooperation request clearly breaches Spanish public policy principles.

2. The Government will determine if reciprocity exists through the Ministry of Justice.

PART IV Judicial attestation faculties and documents

CHAPTER I Functions vested in Court Clerks

Article 279.

1. *Transcripts made by Court Clerks in the course of judicial proceedings will be referred to as Records, Proceedings and Notes.*

2. *They may also issue certified transcripts and testimonies of judicial proceedings provided that their secrecy has not been decreed or limited to the parties with a vested interest, under their responsibility and subject to the legal provisions on the matter.*

Article 280.

1. *Records set out that a certain procedural act or action has been carried out.*

2. *Proceedings may be for recording, classification, communication or enforcement.*

3. *Notes are taken for reference purposes, summary of proceedings and examination of the procedural stage.*

Article 281.

- 1. The Court Clerk is the sole officer with attestation faculties with regard to judicial proceedings and he is also vested with competencies in recording his duties in the capacity of a judicial authority.*
- 2. Public attestation provided by the Court Clerk does not require to be further supplemented by witnesses.*
- 3. Legal representation for a suit may be granted in all proceedings by appearing before the Court Clerk or before the Court which will hear the matter.*

Article 282.

- 1. Notwithstanding the foregoing, Court Clerks may authorise one or more officers to attest certain records which must be entered before the judge and also for recording and communication proceedings.*
- 2. These authorisations will remain in force insofar as they have not been revoked, and responsibility for the certified facts or proceedings will remain with the principal who granted such authorization.*

CHAPTER II Accountability, custody and safekeeping of Court records

Article 283.

- 1. Court clerks will make the appropriate entries to record the date and hour in which a claim was filed, the claim forms filed to initiate legal proceedings and any other documents which are subject to a procedural term which may not be extended.*
- 2. In any event, the parties will be notified of the claim forms and documents filed indicating the date and hour of their filing.*

Article 284.

- 1. Court clerks will inform the Division, the Reporter Judge or the Judge in each case of claims and documents filed on the same day of their submission or on the next business day.*
- 2. They will also do the same with regard to the proceedings which they have authorised without the presence of the Judge.*

Article 285.

They will also notify on the next working day of the reckoning of procedural terms and writs which have now become final in terms of reaching a decision except when they are responsible for that procedural stage.

Article 286.

- 1. Court clerks will account for their actions orally by submitting the orders in subsequent order of filing or the respective procedural entries, without any alterations except if a matter is urgent or has a preferred handling by statutory law.*
- 2. Where appropriate, record of these proceedings will be made attaching a decision proposal.*

Article 287.

Court clerks are responsible for keeping the book, filing and safekeeping all Court proceedings except as otherwise provide in this Act or in any other statute or authorised by a Judge or a Magistrate.

CHAPTER III Classification and resolution proposals

Article 288.

Court clerks of courts and tribunals are responsible for issuing classification notices in order to ensure that the different procedural stages foreseen by law are complied with and for the furtherance of the judicial proceedings through its phases as required by procedural laws, these documents will simply include the name of the Court clerk who issued it, the date and his signature.

Article 289.

Classification notices may be revised by the magistrate or reporter judge ex officio or at the request of a party in the terms provided by the procedural laws.

Article 290.

The Court clerk will submit a proposal to the Judge or the Court in the case of those decisions which are issued as court orders or writs, including the final writs in voluntary jurisdiction suits if no challenge is filed. Orders revising classification notices and writs deciding interlocutory pleadings or appeals, or for indictment or restriction of rights are excluded from the above.

Article 291.

Proposals made in the precedent article will be subject to the formal requirements demanded by this Act for the judicial resolution to be passed, which will record the assent of the Court clerk.

PART V Financial liability of the State in the administration of justice

Article 292.

1. Damages caused to property or to rights due to judicial errors as well as those arising from an abnormal functioning of the administration of justice will entitle the aggrieved parties to claim compensation from the State except on force majeure grounds pursuant to the provisions of this Section.
2. In all cases the loss sustained must be real, ascertained in financial terms and sustained effectively by a person or a group.
3. Revocation or annulment of judicial decisions does not entail per se a right to compensation.

Article 293.

1. Compensation claimed due to a judicial error must be supported by a prior judicial decision which acknowledges such loss. The prior decision may arise directly from a ruling given on review appeal. In any other case, the following rules apply:

- a) Legal action for acknowledgment of a judicial error must be filed within the term of three months as from the day in which such action could have been filed. This term may not be extended.
 - b) The claim for a revision of a judicial error must be substantiated before the Division of the Supreme Court which has the same subject-matter jurisdiction as the judicial body which allegedly incurred in a judicial error, and if such error refers to a Division or a Section of the Supreme Court, the Division mentioned in article 61 hereunder will be competent to hear this matter.
 - c) The procedure to substantiate such claim is the same one as for a civil suit review appeal and in any case the Public Prosecutor and the State Administration will be parties to these proceedings.
 - d) The Court will enter a final decision not subject to further appeal within the term of fifteen days once it has received the corresponding report from the judicial body who allegedly incurred in that error.
 - e) If the claim for a judicial error is dismissed, court costs will be awarded to the petitioner.
 - f) A declaration of judicial error will not be possible against a judgment which is still subject to further appeal according to the legal system.
 - g) An appeal for judicial error shall not stay enforcement proceedings of the judgment given.
2. Both in the case of judicial error and in damages caused by an abnormal functioning of the administration of justice, the petitioner will address his compensation request to the Ministry of Justice directly and it will be handled like any other claim in which the State has financial liability. The decision entered on this matter may be appealed before the contentious-administrative courts. Right of claiming for judicial error lapses after one year since the day it could have been filed.

Article 294.

1. Individuals who have been under preventive imprisonment and are subsequently absolved from the alleged charge or if a non-suit writ has been issued with regard to those criminal proceedings may claim compensation, provided that they have sustained any damages therefrom.
2. Compensation will be determined considering the time they were remanded in custody and in view of the personal and family consequences.
3. Compensation claims will be handled according to the paragraph 2 of the aforementioned Article.

Article 295.

No compensation will be payable when the judicial error or the abnormal functioning of the provisions of judicial services arise from any misconduct or wrongful act by the aggrieved party.

Article 296.

The State will also be liable for any damages which have been caused by malice or gross negligence on the part of Judges and Magistrates, notwithstanding the right to recover from them by means of the corresponding declaratory suit before the competent Court. The Public Prosecutor will always be party to these proceedings.

Article 297.

The foregoing provisions will not preclude any third-party liability claims addressed against judges and magistrates in the terms foreseen in this Act.

VOLUME IV MAGISTRATES AND JUDGES

PART I The Judicial Profession and appointments

CHAPTER I The Judicial Career

Article 298.

1. Jurisdictional functions in courts and tribunals of any nature contemplated in this Act will be solely exercised by professional magistrates and judges which are members of the Judicial Profession.
2. Alternate magistrates, surrogate judges and justices of peace also perform jurisdictional functions although they do not belong to the Judicial Profession, and they will discharge their duties in compliance with this Act, although not as gazetted judges but as provisional tenured offices.

Article 299.

1. The Judicial Professional comprises three ranks:
 - Supreme Court Judges
 - Judges
 - Magistrates
2. Supreme Court Judges, in spite of belonging to the Judicial Profession will have a special statute as set out in this Public General Act.
3. Only those individuals who effectively perform jurisdictional functions in the Supreme Court will be considered Supreme Court Judges.

Article 300.

The Council General of the Judiciary will approve every three years maximum and within a shorter term whenever necessary, the rank of the Judicial Profession (the Judges' Roll) which will be published in the Spanish State Gazette and includes the personal and professional data determined by the appropriate regulations.

CHAPTER II Access and Promotion in the Judicial Profession

Article 301.

1. Access to the judicial career is based on the principles of merit and capacity to perform judicial duties.
2. The selection process to access the judicial career will ensure in an objective and transparent manner that all citizens who meet the necessary conditions and qualifications have equal opportunities and it will provide for the professional capacity and ability of the persons who have been selected for the judiciary.
3. Access to the Judicial Career as a magistrate requires a public examination and a theory and practical course conducted at the Judiciary School.
4. Notice of Public Exams for the Judicial Career which will be made jointly with the announcement for Public Prosecution positions shall refer to all existing vacancies at that time and an additional number in order to cover the ones which may foreseeably occur until the next public exam is held.

Successful candidates according to the name of positions offered may choose according to their score for the Judicial Career or the Prosecutor's Branch within the term determined by the Selection Committee.

5. Legal practitioners of acknowledged repute may also access the Judicial Career as Supreme Court Judges or senior judges in the manner and number established by law. Whoever wishes to access the judiciary as a senior judge must follow a course at the Judicial School.

6. In all cases it is necessary not to be under any incapacity or disqualifying circumstance in the terms established in this Act nor have attained the age for retirement of the Judicial career nor attain it during the maximum term established by law and the enabling regulations for the selection process to be completed.

7. The Ministry of Justice in collaboration with the competent Autonomous Communities may request from the Council General of the Judiciary to convene public examinations and selective promotion and specialisation tests required to cover the vacancies existing in the Judicial Career staff.

The Autonomous Communities competent in the matter will have the same faculties as the Ministry of Justice.

8. Notice of the public examination will provide for a quota equal or higher than 33 per cent for disabled persons provided that they pass the selective tests and establish their degree of disability and compatibility between the corresponding functions and tasks in the manner established by the regulations. Access of disabled persons to the Judiciary and the Prosecutor's Office will be based on the principles of equal opportunities, non-discrimination and compensation of disadvantages, and where applicable the selective tests will be suited to special needs and requirements of those individuals.

Article 302.

In order to take part in the free access public examination to the Judicial Career the requirements are to be Spanish, of legal age and holder of a Degree in Law and not be under disqualifying circumstances established by law.

Article 303.

Physical or mentally handicapped individuals to perform judicial duties, persons convicted for malicious offences in so far as they have not been rehabilitated; individuals charged or indicted for malicious offences until they have been absolved or the proceedings dismissed and those persons who do not enjoy full legal rights may not fully exercise all their legal rights.

Article 304.

1. The court which will evaluate the access tests to the Judicial Career and the Prosecutor's Office for the ranks of magistrate and junior prosecutor respectively will be presided by a judge from the Supreme Court, from the High Court of Justice or from a Division Senior Prosecutor of the Supreme Court or from the High Court of Justice, and the other members will be two judges, two prosecutors, one department chair from the Faculty of Law specialised in the areas covered by the exam, a State Counsel, a legal practitioner with more than 10 years experience in the profession and a first rank Court Clerk who will act as the Secretary.

2. Appointment of members to the Examining Board mentioned in the preceding paragraph will be made by the Selection Committee in the following manner:

The President following a joint proposal of the President of the Council General of the Judiciary and the Director of Public Prosecutions; two judges proposed by the Council General of the Judiciary; two prosecutors proposed by the Director of Public Prosecutions; the department chair by the University Coordination Council; the State Counsel and the Court Clerk following a proposal by the Council General of the Bar Association.

The University Coordination Council and the Council General of the Bar Association will prepare lists with three candidates which they will submit to the Selection Committee for their designation, unless reasons exist which make it advisable to propose only one or two names.

Article 305.

1. The Selection Committee mentioned in the preceding article will include a member of the Council General of the Judiciary and a Division Prosecutor who will preside it annually by turns; the other members being a Judge, a Prosecutor, the Director of the Judicial School, the Director of Legal Studies of the Administration of Justice and a member of the technical bodies of the Council General of the Judiciary, and a senior officer of the Ministry of Justice who must be at least a Sub-director general, both of them will have to be in possession of a law degree and shall act alternatively as Secretaries to the aforementioned Committee.
2. The composition of the Selection Committee will be published in the Official State Gazette following a Ministerial Order issued by the State Secretary of Justice. Members will be designated for a four year period according to the following rules:
 - a) The member of the Council General of the Judiciary, the Judge and the officer from the technical bodies of the Council General of the Judiciary by the Plenary Meeting of the Council General of the Judiciary.
 - b) The Prosecutors by the Director of Public Prosecution.
 - c) The senior officer from the Ministry of Justice by the State Secretary of Justice.
3. Resolutions passed by the Selection Committee will be adopted by majority of its members. In the event of a draw, the President will have the casting vote.
4. The Selection Committee notwithstanding the provisions of the preceding article is also competent to:
 - a) Submit a proposal concerning the public exam subjects, the content of the exercises and other supplementary provisions that must govern the public examination for the Judiciary and the Prosecution, which will have to be approved by the Ministry of Justice and by the Plenary Meeting of the Council General of the Judiciary.
 - b) Conduct all required administrative proceedings to allocate the successful candidates among different Judicial Schools according to the option they have chosen in the terms established in article 301(2) hereunder.
5. Resolutions foreseen in this article and in paragraph (2) of the preceding article put an end to the administrative channel for appeals and are subject to contentious-administrative appeal before the Contentious-Administrative Division of the Supreme Court.

Article 306.

1. The public examination for the Judiciary and the Prosecutor's Office in order to be appointed a magistrate and a junior prosecutor respectively will be convened at least once every two years, notice of the exam will be made by the Selection Committee in the terms foreseen in paragraph (1) of article 305 above following a proposal of the Council General of the Judiciary and the Ministry of Justice considering the maximum number of appointments which will be offered on the basis of article 301, paragraph (4) hereunder and budgetary constraints.
2. Under no event the committee may select for the tests foreseen in article 301 hereunder a number of candidates above the appointments foreseen in that article.
3. Successful candidates to the Judicial Career will be considered as officers in training.

Article 307.

1. The Judiciary School acts as a selection and training centre for magistrates and judges, reporting to the Council General of the Judiciary and aims at providing overall, specialised and high quality training for members of the Judiciary and for future candidates to this body.

The selection course will include a multidisciplinary training programme and practical supervised training conducted at different bodies of the judiciary. During the training period, the candidate judges will engage in support and collaboration judiciary duties with the incumbent judges.

Exceptionally, they may act in replacement or secondment duties in the terms provided in this Act.

The Judiciary School undertakes coordination and initial teaching as well as on-going training in the terms established in article 433bis.

2. The duration of the training period, the circumstances, appointment and functions of trainee judges will be regulated by the Council General of the Judiciary in view of the programme prepared by the Judiciary School. Under no event, the duration of the theoretical training course will be under nine months nor the practicals below six months.

In any case, functions of trainee judges who do not act in replacement or secondment duties in the terms provided in this Act may not go beyond preparing drafts or resolution proposals which the incumbent or reporter may where applicable avail himself of with the amendments he deems appropriate.

3. Candidates who pass the theoretical and practical course will be appointed magistrates following a proposal made by the Judicial School.

4. Formal appointment will be made by the Council General of the Judiciary by means of an order and by being sworn into office they will become effectively magistrates.

Article 308.

1. The Judiciary School will prepare a list of candidates who have passed the theoretical and practical course ranked by the grade obtained which will be submitted to the Council General of the Judiciary.

2. Notwithstanding the provisions of article 301(4), those successful candidates which may not be appointed incumbent magistrates of judiciary bodies will be incorporated to the Judiciary as assistant judges and will be sworn into office at the Council General of the Judiciary to which they will become attached to the purposes of articles 212(1), 216, 216bis 1, 216 bis 2, 216 bis 3 and 216 bis 4.

Assistant judges will be preferred to replacement judges for any appointment to perform the functions described in the articles described in the preceding paragraph and will cease in their duties at any time in which they are appointed incumbent judges and ascribed to any existing vacancies by strict order of their rank in the list of successful candidates.

Article 309.

1. Candidates who do not pass the course may take it again and will be incorporated to the new promotion.

2. If they do not pass the course in second attempt they will be finally excluded and any rights to access the Judicial Career by virtue of the access examinations will lapse.

Article 310.

The appointments which have become vacant in restricted merits public examination will be allocated to the candidates who passed the open public examination.

Article 311.

1. Every four vacancies in the rank of judges will be covered in the following manner: two of them by promotion of magistrates who occupy the first position in the honours list for that rank.

Any magistrate may waive his appointment to judge by providing express notice to the Council General of the Judiciary in the manner and term determined by this body. This waiver will imply that the magistrate will have to remain in this rank for at least two years and only three waivers are permitted.

Once the foregoing term has elapsed, the magistrate will be promoted to the office which he is entitled to. Magistrates who exercise their right of waiver will maintain their rank in the Honours List of Magistrates until effective promotion and they may not take part in ordinary internal promotions while he remains in this situation.

The third vacancy will be covered by selective tests in the civil and criminal divisions, and by specialisation in the contentious-administrative and labour jurisdiction.

The fourth vacancy is covered by merits contest between legal practitioners of acknowledged repute and more than 10 years in the profession once they have passed the training course described in Article 301, paragraph (5).

In its turn, one third of these vacancies is allocated to the Clerkship Association of first and second rank. By means of this procedure, the number of appointments offered may not exceed the total number of effective vacancies and foreseeable vacancies until the merits contest has been completed.

2. Promotion by rank order requires that a magistrate holds such office for three full years of service. For selective or specialisation tests two years of effective services will suffice, regardless of the administrative situation of the candidate.

Members of the Judiciary who are already judges and prosecutors who wish to make a career in the judiciary may also take part in the specialisation tests for the contentious-administrative and labour jurisdictions; in both cases it will be necessary to have been in office for at least two effective years.

This requirement also applies to the persons who take part in the selective tests contemplated in article 329, paragraph (4) hereunder.

3. The Council General of the Judiciary may divide by areas of specialisation all or part of the merits contest to access the Judiciary for legal practitioners of acknowledged repute limiting the merits section to a specific area of law and reserving to that purpose a number of appointments of suitable characteristics within the general provision established in section 1 hereunder.

4. Candidates appointed judges without having previously served in the Judiciary will be included in the Honours Roll immediately before the last judge who had been included in that classification. They may not request voluntary leave of service except in the cases foreseen in article 356 d) and e) until they have completed the length of compulsory service in the judicial career foreseen in paragraph c) of the aforementioned article.

5. Candidates who pass the specialisation exams for the contentious-administrative and labour jurisdiction who previously had acted as prosecutors will have their time of service in that capacity credited to them when they take place in merits contents and in discretionary appointments.

6. Candidates who pursuant to the provisions of paragraph 4 of this Article access the Judicial career by means of a restricted merits contest in the terms of paragraph 3 hereunder may not occupy any vacancy for a different specialty or jurisdiction unless they pass the specialisation tests foreseen for contentious-administrative, commercial or labour jurisdictions.

7. Vacancies which are not covered by this procedure will be allocated to the selective and specialisation tests if they had been convened and in default of this by seniority.

8. In the contentious-administrative and labour jurisdictions the number of specialised judges convened may not exceed the number of vacancies at the time of the announcement.

Article 312.

1. Selective tests for the promotion from magistrate to judge in civil and criminal jurisdictions will be held at the Judiciary School in order to evaluate the capacity and legal expertise of the candidates and their knowledge of different areas of law. They may consist in writing drafts, passing a course, drafting a legal opinion or a decision and defending it before a panel, oral exposition of different subjects and reply to the questions posed by the Panel, or in similar exercises.
2. The tests for the promotion from magistrate to specialised judge in the contentious-administrative and labour areas must evidence also knowledge of the candidates in the subject matter of these specific jurisdictions.
3. The rules applicable to these tests, the papers and where applicable their programmes will be approved by the Council General of the Judiciary.

Article 313.

1. The Council General of the Judiciary at the time in which it convenes the merits contest foreseen in article 311 will approve the guidelines to hold them in which the maximum score is graded according to the scale set out in the following section.
2. The scale will evaluate the following merits:
 - a) Degree in Law with higher grade than a pass including the academic record.
 - b) Doctor of Laws (LLD) and award given including the academic record.
 - c) Number of years as a legal practitioner before courts and tribunals, legal drafts and legal counsel given.
 - d) Term of service as chairs or tenured professors in legal subjects in public universities or in similar categories in private universities with full-time commitment.
 - e) Term of service as a civil servant in any public administration body or agency which require that the candidate should be in possession of a Degree in Law or a Law Doctorate and involve work before the courts, the Prosecutor's office the Clerkship Association, appointments and duties performed.
 - f) Years of effective practice in judicial functions without belonging to the Judiciary and number of resolutions given, evaluating their quality.
 - g) Legal/scientific publications.
 - h) Papers and communications in congresses and courses that refer to legal issues.
 - i) Legal specialisation courses for a period not under three hundred hours and researcher degree obtained by the Spanish Quality and Certification Agency.
 - j) If the candidate has passed any of the papers of the open public examination for the Judicial Career.
3. The guidelines will also include practical exercises such as drafting a legal opinion so that the Panel may assess the candidate's aptitudes.
4. The Council General of the Judiciary at the time in which the merits' contest is convened will determine the maximum score allocated to each merit included in the corresponding indents of section 2) above so that it does not exceed the maximum resulting from the sum of the other two. Grading merits included in paragraphs c), d), e) and f) of the above section will not be lower than the maximum score foreseen for any other merits in the remaining indents.
5. The Examining Board may only take into account those merits which are included in the above list and refer to subjects related to the subject matter of the jurisdiction to which the contest refers to, provided that they have been duly established by the candidate.
6. The guidelines will establish the necessary provisos for the examining panel to become aware of any incidents experienced by the candidates during their professional life and which may be relevant for the discharge of judicial duties.

7. In order to assess the merits mentioned in section 2) hereunder submitted by the applicants, the guidelines of the contest will provide that the panel may summon the candidates or those ones which have attained a certain score in order to hold an interview of no longer than one hour in order to discuss the merits submitted by the candidate and his curriculum vitae. The interview aims to establish the extent of his legal training and capacity to become a member of the Judicial Career on the grounds of the merits established but it may not become a general exam of legal knowledge.
8. The guidelines will establish the procedure to grade the professional merits evidenced in the course of the interview.
9. The panel will draft the minutes of the interview setting out the main topics and its results indicating the criteria followed for the final assessment of the candidate.
10. The guidelines will establish a procedure which must be followed by the panel in order to exclude a candidate who is not a legal practitioner of acknowledged standing either due to insufficient or lack of aptitudes ascertained from his professional record, or because the candidate is under circumstances which are incompatible with that degree of excellence even if he has obtained as per the grading system the minimum score required. In this cases the panel will draft a specific resolution on this matter which will be attached to the proposal which shall be notified by the Council General of the Judiciary.
11. The Council General of the Judiciary may dismiss a candidate on reasonable grounds following a hearing with the candidate if in spite of a favourable proposal by the examining panel, it becomes aware subsequent to such proposal of any unfavourable circumstance for his appointment.

Article 314.

The examining panel for the selective tests foreseen in article 312 hereunder will be appointed by the Council General of the Judiciary and will be presided by the President of the Supreme Court, or a Supreme Court Judge or the President of the High Court of Justice or the person in which the latter may delegate. The other members of the panel shall be: two senior judges, a Prosecutor, two faculty chairs appointed from the relevant department, a lawyer with more than ten years experience, a State Attorney, a senior Court Clerk, and a member of the technical bodies of the Council General of the Judiciary who will act as the Secretary. When it is not possible to designate a faculty chair, exceptionally a tenured professor may be appointed.

Article 315.

Public examinations and merit contests to cover vacancies of Clerkship and other personnel working for the administration of justice will be convened at the request of the Autonomous Community in which vacancies occur by the competent body pursuant to the terms of this Act.

CHAPTER III Appointment and taking possession of office by Magistrates and Judges

Article 316.

1. Magistrates will be designated by means of an Order issued by the Council General of the Judiciary.
2. Judges and Chief Justices will be appointed by Royal Decree following a proposal by the aforementioned Council General.
3. The Royal Decree will be introduced by the Minister of Justice who will sanction the appointment.

Article 317.

1. Appointments will be submitted to the Chief Justice of the Court or the Provincial Court who must swear or decree that the appointees be sworn into office.
2. They will also be informed as well as the Chief Justice of the Court or of the Provincial Court of their former appointment.
3. When Division and Section Chief Justices or judges cease from their current appointment for another one, they will prepare a roll or list of pending matters in their judicial body, recording the date of commencement and their state, providing a copy of this to the Chief Justice of the Court or of the Provincial Court.
4. On taking possession of office the new incumbent judge will examine the list of pending matters prepared by the former judge and will sign it if he agrees with the contents.

Article 318.

1. Members of the Judicial Career will swear on oath or make the following solemn undertaking prior to taking office:
«I swear or promise to uphold and comply and ensure compliance with the Constitution and the entire legal system, loyalty to the King of Spain and to administer fair and impartial justice and comply my legal duties for all citizens».
2. The same oath or undertaking will be given when the judge takes possession of the first appointment which implies a promotion in the judicial career.

Article 319.

1. Chief Justices, Judges and Magistrates will step into office within twenty calendar days since their appointment was published in the Official State Gazette. For those appointed to an office within the same city where they had been performing their former duties, the term will be of eight days. Officers who have to deliver an oath or an undertaking will step into office within three days after having made it.
2. The Council General of the Judiciary may extend these terms if reasonable grounds exist for this.

Article 320.

1. The President, Chief Justices of Divisions and senior judges of high courts and tribunals will take possession of their office in a public act before the Board of Governance of the Court to which they have been appointed or before the High Court of Justice of the corresponding Autonomous Community.
2. Supreme Court Judges and High Court of Justice Judges who have been appointed without having belonged previously to the Judicial Career will deliver the oath or undertaking foreseen in article 318 hereunder in the same act of taking possession of office.

Article 321.

1. Judges will deliver an oath or an undertaking where appropriate before the Board of Governance of the Court or the High Court of Justice to which they have been appointed and also in a public act.
2. Stepping into office will take place at the Court to which they have been appointed in a public act with the attendance of the Court's staff. Possession of office will be given by the former incumbent judge.

Article 322.

1. If an appointee refuses to deliver oath or a solemn undertaking it will be deemed that he resigns from his appointment and to the Judicial Career.
2. The Chief Justice of the Court or the Provincial Court will inform the Council General of the Judiciary that the oath or undertaking has been given or that the term has elapsed without having been given.

Article 323.

1. If fair grounds exist for not appearing to take office, the resigning officer may be reinstated. Reinstatement will be agreed by the Council General of the Judiciary at the request of the applicant.
2. In such case, the reinstated officer must deliver the oath or undertaking and take possession of office in the appointed term which may not exceed half the usual term.
3. If the vacancy has already been covered he will be appointed to the one chosen by him from those of his rank and for which he meets the legal requirements if any position has not yet been covered from the public examination, otherwise he will be appointed to an office.

CHAPTER IV Forms of address and distinctions conferred on Magistrates and Judges

Article 324.

The Chief Justice and the Judges of the Supreme Court, the Chief Justice of the National Court and the Chief Justices of the High Courts of Justice will be addressed as Your Lordship. The Chief Justice of the Provincial Courts and other senior judges are referred to as Your Excellency. Magistrates are referred to as Your Honour.

Article 325.

In official acts, Magistrates and Judges may not may not be addressed in a different form than the one which corresponds to their rank in the Judicial career even if they are entitled to other higher ones by virtue of their career or by other titles.

CHAPTER V Provision of appointments in Courts, Provincial Courts and High Courts of Justice

Article 326.

1. Higher appointments and promotion in the judicial career for magistrates and judges are based on the principles of merit and capacity and also on their suitability and specialisation to perform judicial duties for other appointments.
2. Provision of appointments in the judicial career is made by a merits contest in the manner provided in this Act, except for Chief Justices of Provincial Courts, High Courts of Justice, the National Court and Division Judges and Supreme Court Judges.
3. The Council General of the Judiciary by means of a reasoned resolution may determine on a temporary basis not to offer certain vacancies provided that they are sufficiently well provide for by the alternate or assistant magistrates, or when the requirements of the administration of justice make it advisable to give preference to other ones subject to greater difficulties or workload.

Article 327.

1. Designated judges or those which are under any disqualifying circumstances according to this Act may not take part in these appointments.
2. Magistrates or judges who have not been holding office for the time established by the regulations issued by the Council General of the Judiciary may not hold take part in the merits contest, and under no event such term will be below one year in mandatory appointments and two in voluntary appointments.
3. However in all other cases, the Council General of the Judiciary by means of a resolution may defer the effective appointment of a magistrate or judge vacancy when the successful candidate must devote his best efforts to his current appointment in view of delays thereat which are his responsibility. The deferral may not be for more than three months, after which if the pending matters have not been solved in the terms established in the resolution that granted such extension, the magistrate or judge will lose any rights to the new appointment.

Article 328.

The law which determines the judicial division into districts shall classify the different Courts and determine the rank of the incumbent officers thereat.

Article 329.

1. Merits contests for Courts will be awarded amongst those who have the required qualifications rank highest within their category.
2. Merits contests for the provision of Contentious-Administrative and Labour Courts will be awarded to those who held the position of specialised judge in the respective divisions or belonged to the former Labour Magistrates Association in the case of labour courts, rank highest within their category. In default of this, these vacancies will be covered with judges who have been in office at least three years within the last five years since the merits' contest was convened in the contentious-administrative and labour division respectively. In default of any candidates in this situation these vacancies will be covered by length of service as provided in section 1 hereunder. Judges who are awarded an appointment must take part in the training activities which the Council General of the Judiciary may establish by means of regulations prior to taking possession of their office for judges who change to a different division. In the event of vacancies which are covered by promotion, the Council General of the Judiciary will also establish mandatory training and specialisation activities which must be followed before taking up the new appointment by those judges who have been promoted.
3. Merits' contents for Juvenile Courts vacancies will be awarded to judges who establish their specialisation in minors at the Judicial School rank highest within their category. By default, they will be awarded to judges who have held office in the last three years within the five years prior to the date in the juvenile jurisdiction when the merits provision for Juvenile Courts was convened. In default of any candidates, these vacancies will be covered by length of service in the terms of section 1 hereunder. Judges who are awarded an appointment must take part in the training activities for specialisation in juvenile courts which the Council General of the Judiciary may establish.
4. Merits contests for the provision of Commercial Courts will be awarded to those who establish the specialisation in the matters of those Courts by passing the tests which the Council General of the Judiciary may establish by means of enabling regulations and rank highest within their category. In default of this, these vacancies will be covered with judges who have the longest length of

service in the civil jurisdiction. In default of any candidates in this situation these vacancies will be covered by length of service as provided in section 1 hereunder. Judges who are awarded an appointment must take part in the training activities which the Council General of the Judiciary may establish by means of enabling regulations prior to taking possession of their office. In the event of vacancies which are covered by promotion, the Council General of the Judiciary will also establish mandatory training and specialisation activities which must be followed before taking up the new appointment by those judges who have been promoted.

5. Merits contests for vacancies in Central Examining Courts, Central Criminal Courts and Parole Courts will be awarded to judges who have held office at least eight years in the criminal division prior to notice of the contest; in default of any candidates by the judge who ranks highest within his category.

Merits contests for Contentious-Administrative Courts will be awarded to judges who establish their specialisation in that jurisdiction; in default of this, to any judge who has held office in that division for the last eight years prior to notice of the contest and if no candidates meet this requirement by the judge who ranks highest within his category.

In the latter case, Judges who are awarded an appointment must take part in the training activities which the Council General of the Judiciary may establish by means of regulations prior to taking possession of their office for judges who change to a different division.

6. Members of the judicial career who have been appointed to contentious-administrative, industrial, commercial or first instance courts with commercial competencies and become specialised in these areas may remain in their respective appointments.

Article 330.

1. Merits contests for judge appointments in the Divisions or Sections of the National Court, the High Courts of Justice and the Provincial Courts will be awarded to those officers who have the required qualifications and rank highest within their category, notwithstanding any exceptions set out in the following paragraphs.

2. In each Division or Section of the Contentious Administrative Courts of the High Courts of Justice, one of the vacancies will be reserved for the specialised judge in that division who will be preferred to the judge who ranks highest within that category. If the Division or Section has five or more judges, the number of vacancies covered by means of this system will be two and the same ratio will be observed in all subsequent increases. However, if a member of the Division or Section becomes an expert in that area, he may remain in his current appointment until a vacancy in his area of specialisation is awarded to him. In the provision of remaining vacancies, judges who have held office in that division for the last eight years prior to notice of contest will be preferred.

3. In each Division or Section of the Labour Courts of the High Courts of Justice, one of the vacancies will be reserved for the specialised judge in that division or who belonged to the now extinct Industrial Judges Association, who will be preferred to the judge who ranks highest within that category. If the Division or Section has five or more judges, the number of vacancies covered by means of this system will be two and the same ratio will be observed in all subsequent increases. However, if a member of the Division or Section becomes an expert in that area, he may remain in his current appointment until a vacancy in his area of specialisation is awarded to him. In the provision of remaining vacancies, judges who have held office in that division for the last eight years prior to notice of contest will be preferred.

4. In Civil and Criminal Divisions of the High Court of Justice, one of every three vacancies will be covered by a legal practitioner of acknowledged repute who has practised for more than 10 years in the Autonomous Community appointed following a proposal by the Council General of the Judiciary from three candidates submitted by the Legislative Assembly; the remaining vacancies will be covered by judges designated by the Council General of the Judiciary among those judges who have held office for the last 10 years with that rank and in the civil and criminal division with

specialised knowledge of civil, regional or special laws of the land, in particular of the laws of that Autonomous Community.

In the event that appeal divisions exist as foreseen in article 73(6) hereunder, the vacancies for those courts will be covered pursuant to the provisions of that article.

When the on-going and noticeable difference in the workload of the different divisions of the High Courts of Justice make it advisable, the judges of any of them following a favourable resolution by the Board of Governance on the grounds of a proposal made by the Chief Justice of that Court may be ascribed by the Council General of the Judiciary either on a full or part time basis and without any increase in their remuneration to another Division of that High Court of Justice. The criteria for this ascription will be seniority in their category and specialisation or experience of the candidate judges and where possible, their preferences.

5. Merits contests for vacancies in Provincial Courts will comply with the following rules:

a) If there are several sections and the Courts are organised in divisions, judges who have held office in that specific division for the last six years prior to notice of the contest will be preferred. Seniority in mixed jurisdictions will be reckoned as half to these purposes.

b) If there are several sections of Provincial Courts which hear in second instance appeals filed against any type of decisions given by Commercial Courts, judges who are specialised in the subject matter of those courts will be preferred after having passed the required selective tests as set out in the corresponding regulations passed by the Council General of the Judiciary and considering the judges with best ranking in their category. In default of this, judges who have held office for a longer period of time in mixed jurisdiction bodies will be considered.

6. In default of the criteria specified in sections 2 to 5 hereunder, vacancies will be covered pursuant to section 1 hereunder.

7. Merits' contests for vacancies in the National Court will consider those judges who are specialised in the subject matter of the corresponding division; in default of this, by those judges who have been rendering services in the corresponding jurisdiction for the last eight years prior to notice of the contest; in default of all the above criteria, by the judges who rank highest in their category.

Provision of vacancies in the Appeal Division of the National Court will consider those judges who have been fifteen years in the profession and have discharged their duties for at least ten years in the criminal division, and preferably between those judges who have obtained the corresponding specialisation diploma.

8. The number of specialised appointments in the contentious-administrative and labour jurisdiction may not exceed the number of vacancies at the time of the merits' contest.

Article 331.

1. Candidates who become High Court of Justice judges without having previously belonged to the judicial career will be so appointed for the sole purposes of discharging their duties at that Court and may not be appointed to any other position, except in the event of their promotion to the Supreme Court under the provision of expert lawyers and other legal practitioners of acknowledged repute foreseen in article 343 hereunder.

2. To all other purposes they will be considered members of the Judicial Career.

Article 332.

Magistrates who are promoted to Judges by means of selective test involving specialisation in the contentious-administrative or labour division, will retain the rights to take part in contents for other jurisdictional divisions according to their seniority in their common category. To occupy a position of their specialisation only the time effectively holding office in that capacity will be considered.

Article 333.

1. The positions of Chief Justice of the National Court and of Chief Justice of the High Court of Justice Divisions will be covered for a five year period following a proposal by the Council General of the Judiciary between Judges which have holding office for the last ten years in that category and eight years in the corresponding jurisdiction. Notwithstanding, the Chairmanship of the Appeal Division of the National Court will be covered with judges with more than fifteen years experience in the profession and who have rendered services for more than ten years in the criminal jurisdiction division, and specialist judges will be preferred. The Chief Justice of the National Court, of the High Courts of Justice and Provincial Courts will be covered by merits' contests pursuant to the rules foreseen in Article 330.

2. Appointment to Chief Justice may not fall on those judges who have been sanctioned in the course of disciplinary proceedings for a serious or very serious offence, insofar such circumstance has not been cancelled from their record.

Article 334.

Vacancies which are not covered due to lack of candidates shall be allocated to judges who have been promoted or attain the necessary category according to the roster.

Article 335.

1. Appointment to Chief Justice of the National Court will be made according to the procedure established in Article 333 hereunder.

2. Such designation for the position of Chief Justice of the National Court will be provided for by the Council General of the Judiciary for a five year period between senior judges who have held office for the last fifteen years in that category and who meet the requirements for that appointment in the terms foreseen in this law for the Chief Justices of the High Courts of Justice.

3. The position of Head of Inspection Services of the Council General of the Judiciary will be covered by a Supreme Court judge who has held office for at least two years in that category or by a senior judge who has held office in that category for the last ten years. In this last case, while holding office he shall be considered a Supreme Court Judge.

Article 336.

1. Appointments for Chief Justices of High Courts of Justice will be made for five years following a proposal by the Council General of the Judiciary between judges who have held office for ten years in that category and apply for this position provided that they have been fifteen years in the Judicial Career.

2. Appointment of Chief Justice of a High Court of Justice will take effect from the moment of its publication in the Official State Gazette notwithstanding the mandatory publication in the Official Gazette of the Autonomous Community.

Article 337.

Chief Justices of Provincial Courts will be appointed for a five year period following a proposal of the Council General of the Judiciary between judges who so request it and have been ten years in the profession.

Article 338.

Chief Justices of the National Court, of High Courts of Justice, of Provincial Courts, of National Court Divisions and of High Courts of Justice Divisions will cease in their functions in the event of any of the following circumstances:

- 1) If their mandate expires, unless they are re-elected to office for another five year period.
- 2) Resignation accepted by the Council General of the Judiciary
- 3) Following a decision agreed in the course of disciplinary proceedings.

Article 339.

The Chief Justice of the National Court, the Chief Justices of the High Courts of Justice will cease from office when they become attached at their choice to the Court or Provincial Court from which they have resigned in the aforementioned capacity or to their last appointment until they are awarded the position requested by them and they will also have preference in the next three years since they stepped down from office to any position of their category which must be awarded by means of a voluntary merits contest without specialisation.

Article 340.

The Chief Justices of the National Courts, the Chief Justices of the High Courts of Justice Divisions and the Chief Justices of Provincial Courts who step down from office will be ascribed at their choice to the Court or Tribunal from which they resigned in that capacity or to their last appointment until they are awarded the position requested by them and they will also have preference in the next two years since they stepped down from office to any position of their category which must be awarded by means of a voluntary merits contest without specialisation.

Article 341.

1. For the provision of vacancies of Chief Justices of High Courts of Justice or Provincial Courts in those Autonomous Communities which have Special or Regional Statutes and their own official language, the Council General of the Judiciary will consider as a specific merit their specialisation in such Regional or Special law and knowledge of the language spoken in that Community.
2. Evaluation criteria regarding knowledge of Special or Regional Civil Law of the aforementioned Autonomous Communities will be considered as a preferred merit in any public contests for judiciary bodies in that territory.

CHAPTER VI Provision of Supreme Court appointments

Article 342.

Chief Justices of the Supreme Court will be appointed for a five year period following a proposal of the Council General of the Judiciary among judges of that Court which have been three years in office in that category.

Article 342 bis.

The Supreme Court Judge competent to hear the authorization of activities carried out by the National Central Intelligence Agency which refer to fundamental rights foreseen in article 18.2 of the Constitution will be appointed for a five year period following a proposal of the Council

General of the Judiciary amongst judges of that Court which have held office for three years in that category.

Article 343.

At the different Court Divisions, from each five position of judges four will be allocated between members of the Judicial Career who have been held office as a senior magistrate for the last ten years and have been at least fifteen years in the Judicial Career, and the fifth vacancy between lawyers and other legal practitioners of acknowledged repute.

Article 344.

Of each four positions reserved for the Judicial Career:

- a) Two will be allocated to judges who reached that category by the appropriate selection tests in the civil and criminal jurisdiction or who have passed them already holding that category or depending on the nature of the jurisdiction, two will be for judges who are specialised in the contentious-administrative or labour field, or in the latter case who belong to the former Labour Judges Division. In this provision of office, fifteen years in the judicial career will be required and only five in that category. To the purposes of vested rights of appointments in the civil jurisdiction, judges who have passed the corresponding commercial law specialisation selective tests will rank equal to the ones who have passed the selection tests in the civil jurisdiction.
- b) Two judges who meet the general requirements to access the Supreme Court in the terms foreseen in the previous article.

Article 345.

Lawyers and legal practitioners of acknowledged repute who meet the necessary requirements in the judgment of the Council General of the Judiciary may be appointed Supreme Court Judges, provided further that they have been in the profession for a period exceeding fifteen years preferably in that area of law which corresponds to the type of jurisdiction to which they shall be appointed.

Article 346.

When the number of judges in a division is not a multiple of five, a position will be allocated to group b) of article 344; to group a) of the same article; or to a group of legal practitioners of acknowledged standing, by this order.

Article 347.

Those who have access to the Supreme Court without previously belonging to the Judicial career will be incorporated to that category ranking under the last position of Supreme Court judges. To all purposes their fifteen years length of service will be credited to them.

CHAPTER VII Status of Magistrates and Judges

Article 348.

Magistrates and judges may be under any of the following situations:

- a) Active services

- b) Special services
- c) Voluntary leave
- d) Suspended from office.

Article 348 bis.

In the event that a Supreme Court Judge performs any public or private activities except for the ones listed below, he shall then rank as a senior judge:

- 1. Member of the Council General of the Judiciary.
- 2. Constitutional Court Judge
- 3. Member of International High Courts.
- 4. State Attorney General
- 5. Head of Inspection Services of the Council General of the Judiciary.

Article 349.

- 1. Magistrates and Judges are considered in active service when they occupy the corresponding office in the Judicial Career, when they have been provisionally appointed to office, when they are appointed assistant judges or when they are performing secondment duties.
- 2. In the event that a jurisdiction is no longer in existence or has been restructured so that it now belongs to a different jurisdictional order, the incumbent magistrate or judge at that court will be ascribed to the Chief Justice of the High Court of Justice in the terms established in article 118(2) and (3) hereunder.

Article 350.

- 1. The Council General of the Judiciary may appoint Magistrates and Judges to secondment duties for a period no longer than one year, subject to being extended for another year
 - a) to provide services to a court or tribunal, with or without being discharged from their incumbent duties;
 - b) to render services at the Ministry of Justice, with or without being discharged from their incumbent duties;
 - c) to take part in international judicial assistance duties, when they have not been appointed to a special services mission.
- 2. Secondment duties require the acceptance of the candidate and a report by his reporting officer and by the Inspection Department of the Council General of the Judiciary. Such secondment may only be awarded if it is in the interests of the department and of the administration of justice stating the grounds for such requirement.

Article 351.

Magistrates and Judges will be considered in special services mission when:

- a) Appointed Chief Justice of the Supreme Court, State Attorney General, Member of the Council General of the Judiciary, Constitutional Court Judge, Ombudsman or his assistant, Member of the Exchequer's Court, Privy Counsel of State Counsellor, President or Member of the Restrictive Practices Court, Director of the Data Protection Agency or member of International High Courts of Justice, members or incumbent officers of similar bodies in the Autonomous Communities.
- b) They have been authorised by the Council General of the Judiciary to carry out an international mission for a specified period of time exceeding six months in international bodies, governments,

foreign public entities or in international cooperation programmes following a declaration of public interest by the Ministry of Foreign Affairs.

- c) They become officers at the service of International Organizations or trans-national bodies.
- d) They are appointed Legal Advisors of the Court of Justice of the European Communities, of the Constitutional Court, of the Council General of the Judiciary, of the Supreme Court, or senior judges of the Technical Department of the Supreme Court or ascribed to the Ombudsman or similar body in the Autonomous Communities.
- e) They perform services by virtue of an appointment by Royal Decree or by a Decree of the Autonomous Communities to an office which does not rank higher than director general.

Article 352.

Supreme Court Judges will be considered as in special services mission if they are appointed to any of the following positions:

- a) Member of the Council General of the Judiciary.
- b) Constitutional Court Judge.
- c) Member of the High Courts of Justice.
- d) State Attorney General.
- e) Head of the Inspection Department of the Council General of the Judiciary.

Article 353.

The special services mission status will be declared ex officio of by the Council General of the Judiciary, or at the request of the interested party notwithstanding compensation payable to them considering their length of service in the judicial career.

Article 354.

1. Magistrates and Judges under the situation of special services will be entitled to the remuneration applicable to that position or appointment, notwithstanding their remuneration for length of service in the judicial career.
2. Magistrates and Judges under the situation of special services will have the time in which they spend in such position credited to them to the purposes of promotion, seniority and retirement benefits. They will also be entitled to retain the office they are appointed to in that position or which they may obtain in the course of same.

Article 355.

When they cease in the position of special services mission they must request reinstatement to active service within the maximum term of 10 days reckoned since their change of status and they will take possession of their new appointment within the term of the next 20 days; otherwise they will be declared on temporary leave since the day they left the former position or office. Reinstatement will have financial and administrative effects since the date it was applied for.

Article 356.

Temporary leave status at the request of the magistrate or the judge will take place in the following cases:

- a) When they are in active service in a group or body of the Public Administration or in the Prosecutor's Office.

- b) When they hold office or perform services in bodies or entities of the public sector and they do not fall under any other situation. In this case, after having stepped down from office they must request reinstatement to active service within the maximum term of 10 days reckoned since their change of status as otherwise they will be considered on voluntary leave for their own affairs.
- c) For personal matters or affairs provided that they have performed services in the judicial career for the last five years and they may must remain in this situation for at least two years. This leave will be granted in view of the needs of the administration of justice. It may not be awarded when the magistrate or judge is under disciplinary proceedings.
- d) For children care, for a period not over three years to take care of each child either a biological child, adopted, under foster care or placement, reckoned since the date of birth or the date of the judicial or administrative resolution on these matters. Subsequent children will entail a new leave period which where applicable will put an end to the one currently being enjoyed. When both parents work, only one of them may exercise this right.
- e) Temporary leave may also be granted for a period not exceeding one year to take care of a relative under their care up to the second degree of consanguinity or affinity or which due to age, accident or illness is unable to take care of himself and does not perform any remunerated activity. Each leave period will be one for each circumstance. When a new event granting such entitlement occurs, the beginning of the period will put an end to the one currently being enjoyed. Leave period in the aforementioned terms is an individual right of the members of the judicial career. In the event that two of its members are entitled to such leave with regard to the same event, the Council General of the Judiciary may limit its simultaneous exercise for reasons related to needs and functioning of services.
- f) When designated for a discretionary or executive appointment, except in the cases listed in article 351 or when he chooses to become a candidate for public office in representative bodies such as the European Parliament, Congress, Senate, Legislative Assemblies of the Autonomous Communities or local councils. If he has not been elected to office, he must choose by so notifying it to the Council General of the Judiciary within the term of thirty days on whether to remain in voluntary leave or request reinstatement to active duties.

Article 357.

When a Supreme Court judge requests voluntary leave and it is granted he will lose his condition except in the case foreseen in paragraph d) of the foregoing article. In all other cases, he will be ranked while on voluntary leave in the senior judge category.

Article 358.

1. The different temporary leave situations does not grant tenured office. The magistrate or judge while on leave will not be entitled to any remuneration nor will the time spent in that situation will not be credited to him to the purposes of promotion, seniority and retirement benefits except as provided in paragraph (2) of this article in the terms established for individuals received state benefits.

2. Voluntary leave for childcare and to care for relatives as foreseen in paragraphs d) and e) of Article 356 are excepted from the provisions of the foregoing paragraph, and the time in those situations will be credited to the purposes of three-year benefits and length of service. After the first year, their position will be tenured and it will be reckoned for time of service. Once that year has elapsed, tenure will refer to a position in the same province and of equal rank requesting one month before the finalisation of the maximum leave period to be reincorporated to active service.

Otherwise, it will be considered ex officio that voluntary leave has now become leave for personal affairs.

3. Individuals in the leave situation contemplated in article 356, paragraph f) who request to be reincorporated to active service will be ascribed to the Chief Justice of the High Court of Justice of the Autonomous Community in which they held their last office, and they have preference in choosing a position of their rank in that province or in default of this, in the Autonomous Community where they had discharged their duties.

Article 359.

1. Reincorporation to active service of a magistrate or judge on voluntary leave for personal affairs which has been away for more than ten years will require a Capacitation Certificate issued by the Council General of the Judiciary who will request the relevant reports and conduct the necessary inquiries to ascertain it.

2. Magistrates and judges in the administrative situation of voluntary leave who request to be reincorporated to active service, if they receive the Capacitation Certificate are obliged to take part in all selection proceedings convened for vacancies of their category until they secure an appointment. Otherwise they will be declared on voluntary leave for personal affairs and the Capacitation Certificate will not have any legal effects.

Article 360.

Once a magistrate or a judge previously on voluntary leave has been reincorporated to active service for the reasons foreseen in Article 356, paragraph f), he may not access for the next five years any office in the judicial career which are not allocated strictly on the grounds of length of service.

Article 361.

1. A magistrate or judge may be suspended from office either on a temporary or permanent basis in the terms established by law.

2. The magistrate or judge suspended from office will not be able to perform his duties throughout the suspension period.

Article 362.

1. Temporary suspension may be decreed in the course of disciplinary or judicial proceedings.

2. Temporary suspension during the handling of administrative proceedings may not exceed six months except in the event that the proceedings are suspended for reasons attributable to the interested party.

Article 363.

Temporary suspension entitles the suspended judge to collect his basic pay except in the event of suspension of disciplinary proceedings caused by him, in which case he will not collect any remuneration throughout the suspension period. If the judge does not appear or acts in contempt of the court, he will not collect any remuneration.

Article 364.

When suspension is not declared final nor it is resolved that the judge should be removed from office, the suspension period is considered as active duty and the suspended judge will be reinstated immediately to his former office being entitled to all wages and other rights as from the moment in which suspension became effective.

Article 365.

1. Suspension will be considered final when it has been imposed following a conviction or disciplinary measures, and the period of temporary suspension will be credited to these purposes.
2. Permanent suspension for more than six months entails loss of office. The vacancy will be covered by the ordinary procedure for judicial vacancies.
3. Permanent suspension will entail loss of all rights attached to the judicial official until the magistrate or judge is reinstated.
4. Until the suspension term has not expired, his administrative situation will not vary.

Article 366.

1. The magistrate or judge who has been finally suspended must request reinstatement to active duty one month before the expiry of the suspension period. Reinstatement will produce administrative and economic effects from the moment in which criminal or disciplinary liability has expired.
2. If reinstatement is not requested in the period mentioned in the preceding paragraph, he will be declared on leave for personal affairs as from the date in which the suspension period ends.

Article 367.

1. Reinstatement to active duties of a suspended judge requires a capacitation certificate issued by the Council General of the Judiciary which will request the relevant reports and conduct the necessary inquiries to ascertain it.
2. If they receive the Capacitation Certificate are obliged to take part in all selection proceedings convened for vacancies of their category until they secure an appointment. Otherwise they will be declared on voluntary leave for personal affairs and the Capacitation Certificate will not have any legal effects.

Article 368.

Applications for vacancy appointments among those who must return to active duty will be made in the following order:

- a) Suspended officers.
- b) Reinstated officers.
- c) Voluntary leavers.

Article 369.

The change in the administrative situation of magistrates and judges may take place provided they meet the legal requirements for each case without having to be on active service.

CHAPTER VIII Time-off and paid leave

Article 370.

1. Magistrates and Judges will establish their residence where the court or tribunal where they perform their duties is located and they may not leave the judicial district to which they have been appointed except when so required in compliance with their judicial duties or if they request time-off or rest days.

2. The Board of Governance of each Court to which they have been allocated may authorise them to fix their residence in a different place if reasonable grounds exist for this decision and provided that it is compatible with full compliance of the duties arising from office.
3. Absence of Magistrates and Judges outside the seat of their Court from the end of the last hearing to the last day before a public holiday to the first hearing of the next business day is not considered leave of absence provided however that they are not only judge in that court and that they are not on-duty.

Article 371.

1. Magistrates and Judges will have an annual holiday period of one month except those officers who have been appointed to the Canary Islands who may accumulate in one period the holidays accrued over two years.
2. Division Chief Justices, Supreme Court Judges and all other courts will enjoy this rest period during the month of August with the sole exception of those judges who are to take part on the duty division contemplated in article 180 hereinunder.

Article 372.

The annual holiday period may be refused for the period requested when there are pending cases in the Court or Tribunal, due to cumulative time-off requests in that district or for other exceptional circumstances which may detrimental to the administration of justice.

Article 373.

1. Magistrates and Judges will be entitled to fifteen days paid leave in the event of marriage.
2. They will also be entitled to paid time-off in the event of giving birth, adoption, fostercare and placement in view of adoption for the term and subject to the conditions established in the general legislation on this matter. The Council General of the Judiciary will issue regulations to adapt the foregoing legislation to the specific circumstances of the judicial career.
In the event of international adoption, or when the foster parents have to travel to the country of the adoptee, the leave period contemplated in this article may be extended up to four weeks prior to the resolution which authorises such adoption.
3. Paid leave is also granted in order to pursue studies related to judicial duties following a favourable report issued by the Chief Justice of the Court in which he performs his duties considering the work load thereat.
When the leave period is over, a memorandum on the studies carried out will be submitted to the Council General of the Judiciary and if its contents are considered insufficient, the leave period will be offset with days of holiday of the applicant.
4. Time off may also be given up to three days, to the maximum of six requests in one calendar year and once each month . The applicant must establish the grounds for such request to his supervisors who may refuse to grant time-off if it coincides with hearings, proceedings or deliberations except if the applicant justifies that the request is due to an unforeseeable or urgent situation.
5. Birth of a child, death, serious illness or accident, hospitalisation of the spouse or partner, or of a relative in first degree of kinship by consanguinity or affinity will entitle the applicant to three days paid leave, of five days if they have to travel to these purposes. The foregoing leave period will be reduced to two and four days respectively when death or any of the foregoing circumstances refer to relatives in second degree of kinship by consanguinity or affinity.

Article 374.

If a judge is ill and may not perform his duties, he will inform the Chief Justice to whom he reports immediately and if the illness lasts more than five days he must request leave on these grounds informing of the medical diagnosis as to the required time for his recovery.

Article 375.

1. In the event of illness, after the sixth month of leave, only the basic remuneration and family allowance will be paid, notwithstanding any supplementary benefits depending on the appropriate Social Security scheme applicable.
2. Time off for courses will entitle to collect the basic remuneration and family allowance.
3. Licence for illness up to the sixth month and other licences and permits will not affect the remuneration package of the officer under these circumstances.

Article 376.

When exceptional circumstances make it necessary, leave permits and time-off provisions may be suspended or revoked, and the Magistrates and Judges will be ordered to return to their duties at the Court or Tribunal.

Article 377.

By means of regulations the legal framework of leave permits and time-off provisions will be further developed establishing the authority in charge of granting them, their duration and all other matters not contemplated hereunder.

PART II Judicial Independence

CHAPTER I Magistrates and Judges as tenured officers

Article 378.

1. Magistrates and Judges are considered tenured officers while they perform judicial duties.
2. Those officers who have been appointed for a certain period of time will be considered tenured officers only for that time.
3. In the events or resignation, leave of absence, transfer and promotion the specific provisions foreseen in this Act will control.

Article 379.

1. Magistrates and Judges will lose their condition in the following cases:
 - a) If they renounce to the Judicial career. The circumstances foreseen in articles 322 and 357(3) hereunder apply.
 - b) Loss of Spanish nationality.
 - c) By virtue of disciplinary sanction which entails their removal from the Judicial Career.
 - d) If they have been convicted for any malicious offence and imprisoned for this reason. If the term of the conviction does not exceed six months, the Council General of the Judiciary in view of the offence perpetrated may on a justified basis replace the loss of such condition by the sanction foreseen in article 420.1.(d).

- e) If they are under incapacitating circumstances, except if they qualify for retirement.
 - f) Retirement.
2. Removal in the terms foreseen in indents b), c) and d) of this article will require opening proceedings and notification to the Public Prosecutor.

Article 380.

Officers who have lost the condition of Magistrates and Judges for any of the circumstances foreseen in indents a), b), c) and d) of the aforementioned Article may request from the Council General of the Judiciary their reinstatement once they have obtained the rehabilitation foreseen in the Spanish Criminal Code, where applicable.

Article 381.

1. Reinstatement will be granted by the Council General of the Judiciary when the grounds or inexistence of the events which have rise to removal are established, taking into account all circumstances.
2. If reinstatement is refused, proceedings for reinstatement may not be filed again until three years have elapsed since the initial unfavourable resolution given by the Council General of the Judiciary.

Article 382.

The Judge or Magistrate who has been reinstated will be appointed to office in the manner foreseen in this Act.

Article 383.

Suspension of Magistrates and Judges will only take place in the following cases:

- One. When proceedings have been instituted against them for offences perpetrated by them in the discharge of their duties.
- Two. When they are convicted for a malicious offence and an imprisonment order has been decreed against them or they are on bail or indicted.
- Three. When so decreed in the course of disciplinary or incapacitating proceedings either on a temporary or final basis.
- Four. If a final judgment provides as the main or accessory conviction suspension or removal from office.

Article 384.

1. In the cases foreseen in the first two paragraphs of the foregoing article, the magistrate or judge hearing the case will notify it to the Council General of the Judiciary which will decree the suspension after having heard the Public Prosecutor.
2. In the event foreseen in paragraph (4) above, the Court will submit a verbatim transcript of the judgment to the Council General of the Judiciary.
3. Suspension will last in the cases foreseen in paragraphs 1 and 2 above, until an absolatory judgment or non-suit order is entered. In all other cases for all the term of the conviction, sanction or cautionary measure.

Article 385.

Magistrates and Judges will only retire:

One. When they attain the age of retirement.

Two. If they are under permanent disability to perform their duties.

Article 386.

1. Retirement of magistrates or judges when they reach the legal age will be decreed sufficiently in advance to ensure that these officers cease from their duties when they effectively attain seventy years of age.

2. They may also retire when they are sixty-five years old if they request it from the Council General of the Judiciary six months in advance notwithstanding any other early voluntary retirement foreseen in the law.

Article 387.

1. When a magistrate or a judge is under permanent incapacity, the corresponding Board of Governance at the request of the Public Prosecutor or the applicant will submit a retirement proposal to the Council General of the Judiciary.

2. Retirement on the grounds of permanent incapacity proceedings may also be initiated by the Council General ex officio or at the request of the Public Prosecutor.

3. Retired judges due to permanent incapacity may be reinstated and return to active duty if they establish that the reasons for their retirement had disappeared.

Article 388.

Removal, transfer, retirement due to permanent incapacity and reinstatement proceedings will require a hearing with the officer under those circumstances and a report by the Public Prosecutor and the respective Board of Governance notwithstanding any other circumstances which may be considered although the final decision is vested with the Council General of the Judiciary.

CHAPTER II Disqualifying circumstances and prohibitions

Article 389.

The appointment to judicial office either as a magistrate or a judge is incompatible with

- 1) The exercise of any jurisdiction other than the Judiciary.
- 2) Any elective or political appointment to the State, Autonomous Communities, Provinces and other local entities or councils included within the structure of any of the above.
- 3) Remunerated or for profit employment or positions with the State Administration, Parliament, the Royal Staff, Autonomous Communities, Provinces, Councils or other local entities or councils included within the structure of any of the above.
- 4) Employments of nature at Courts or Tribunals of any jurisdiction.
- 5) Any remunerated employment, appointment or profession, except teaching and legal research, literary, scientific, artistic and technical papers and publications arising from these pursuant to the provisions on disqualifying circumstances of civil servants working for the Public Administration.
- 6) Acting as legal counsel or a barrister.
- 7) Any legal consultancy work, paid or otherwise.
- 8) Any commercial or business activities even on behalf of a third party.

9) Duties as Manager, Supervisor, Administrator, Director, partner or any other appointment which involves direct, administrative or financial presence in commercial companies or entities, public or private, regardless of their activities or legal status.

Article 390.

1. Individuals who are performing any duties, or holding an office or appointment listed above prior to becoming magistrates or judges must choose within the term of eight days to either one or the other position and resign from the prohibited activity.
2. In the event that they do not inform of the option chosen within the aforementioned term it will be deemed that they have waived their appointment to the judicial career.

Article 391.

Judges who have matrimonial ties between them or a similar emotional relationship, kinship up to the second degree of consanguinity or affinity may not belong to the same Bench or Provincial Court except if by legal mandate or pursuant to the provisions of articles 155 and 198(1) of this Act there are several divisions in which case they may be appointed to different sections, but they may not be in the Bench or Division.

Magistrates or judges who have the same ties or degree of kinship may not be together in the same Board of Governance. This provision applies to Chief Justices.

Article 392.

1. Magistrates and Judges may not take part in appeal proceedings which refer to a resolution given by individuals who have any of the relations mentioned in the preceding Article nor in the last stages of judicial proceedings which by their nature involve making a judgment on the prior proceedings.

By virtue of this principle, the judge should abstain from hearing the matter whenever the foregoing ties are appreciated, and likewise in the event of any of the following circumstances:

a) Examining magistrates are under incompatibility with Criminal Single Judges who will preside the oral hearing on the basis of their preliminary inquiries and also with the Judges of the Section who are also involved in the case.

b) Judges of any Bench either existing functionally or otherwise, which is vested with cognizance of appeals referred to decisions of a jurisdictional body regardless to which division it belongs to are incompatible with the judges and magistrates of that body. Divisions and Sections of the Supreme Court are excluded from the scope of this prohibition.

2. Incompatibility with regard to the relations listed in the preceding article also applies to the following:

a) Chief Justices and Division Judges of the Criminal Jurisdiction of the National Court and Provincial Courts with regard to the Public Prosecutor officers working thereat except in the event that the Provincial Court has more than three sections.

b) Chief Justices and senior judges of Civil and Criminal Jurisdictions with regard to the Chief Prosecutor and the Assistant Prosecutor in that body.

c) Examining magistrates and Single Criminal Judges with regard to prosecutors who have been assigned to the territory where they hold jurisdiction except Judicial Districts in which there are more than five bodies of that nature.

d) Chief Justices, Judges and Magistrates with regard to Court Clerks and other personnel working in the Courts who report directly to them.

Article 393.

Magistrates and Judges may not hold office:

1. In the division of Courts and Tribunals where a legal counsel or a barrister usually acts if they are his spouse or a relative up to the second degree of kinship by consanguinity or affinity. This disqualifying circumstance will not apply to cities in which there are ten or more First Instance and Examining Courts or Divisions with three or more Sections.
2. In a Provincial Court or Court within the territory of their jurisdiction if in any of its boroughs either the judge himself, his spouse, or relatives up to the second degree of kinship by consanguinity or affinity have business interests or vested interests which would make it difficult to perform the judicial duties fairly. Cities of more than one hundred thousand inhabitants are excluded from the above prohibition.
3. At a Bench or a Court in which they have acted as legal counsel or barristers in the last two years prior to their appointment.

Article 394.

1. When an appointment may lead to incompatible positions in the terms foreseen in the foregoing articles, it will be discharged and the magistrate or judge will be subject to a mandatory transfer notwithstanding any disciplinary liabilities incurred.
2. When incompatibility arises by virtue of subsequent events, the Council General of the Judiciary will provide for the mandatory transfer of the magistrate or judge in the event foreseen in paragraph (1) above, or of the last appointed of the remaining ones. Where appropriate it may to the Government the transfer of the incompatible member of the Prosecutor's Office if he had held office for a shorter period of time. Mandatory transfer is subject to not changing his current residence if a vacancy exists, and in that case such vacancy will not be covered by means of a public contest.

Article 395.

Magistrates and Judges may not belong to political parties or trade unions or work in any manner for them, and they must likewise refrain from:

- 1) Congratulate or reprove powers, authorities, civil servants or local entities in any of their acts in the capacity of members of the judiciary nor attend in such capacity any public meetings or acts which are not of judicial nature, except for those events which purpose is to congratulate the King or which have been convened or to which they may attend following an authorisation by the Council General of the Judiciary.
- 2) Become involved in legislative elections in any manner other than for voting as any other citizen. Notwithstanding the foregoing, they will perform their duties and tasks arising from their office.

Article 396.

Magistrates and Judges may not disclose circumstances or information pertaining to private individuals or moral persons which they have become aware of in the exercise of their duties.

Article 397.

Competencies regarding authorization, recognition or denial of compatible circumstances in the terms provided in this chapter is vested with the Council General of the Judiciary following a report by the Chief Justice of the respective Court or Bench.

CHAPTER III Judicial immunity

Article 398.

1. Magistrates and Judges in active duty may only be arrested by means of a warrant of arrest issued by a competent judge or in the event of being caught in the act. In the latter case the essential cautionary measures will be adopted and the arrested judge will be submitted to the nearest Examining Court as soon as practicable.
2. All arrests will be notified as expeditiously as possible to the Chief Justice of the Court or the Bench to whom the Judge reports. The judiciary authorities will adopt the necessary measures to provide for a substitute judge.

Article 399.

1. Civil and military authorities will refrain from associating with Magistrates and Judges or request their presence before them.
When a civil or military authority requests any information or statements which may be provided by a magistrate or a judge and which do not refer to their office or duties, the request will be made in writing and they will be received in the official chambers of the judge, prior notice of this.
2. In the case that they request cooperation or assistance due to their office or their jurisdictional functions, it will be provided as expeditiously as possible except if the act that must be carried out is not legal or is detrimental to the authority of the Judge or the Court. Refusal will be reported to the petitioning authority indicating the grounds for such refusal.

Article 400.

When in the course of criminal proceedings it becomes necessary that a magistrate or a judge delivers a testimony and it is legal to do so, they may not refuse it. If the Judicial Authority before whom such deposition is made ranks below the deponent, the latter will be summoned to the chambers of the magistrate or judge, prior notice of the day and hour in which it will take place.

CHAPTER IV Legal framework for professional associations of Magistrates and Judges

Article 401.

Pursuant to article 127 of the Constitution, the free association of magistrates and judges which are members of the Judicature is allowed which will be governed by the following rules:

- 1) Professional associations of magistrates and judges will have legal personality and full capacity to pursue its ends.
- 2) Their legitimate ends will be the defence of professional interests of its members in all areas and performance of all manner of activities focused on the administration of justice in general. They may not engage in any political activities nor have any ties with political parties or trade unions.
- 3) Professional associations of magistrates and judges must have national scope notwithstanding the existence of branches which area of influence will be territory of a High Court of Justice.
- 4) Magistrates and Judges are free to belong or not to professional associations.
- 5) Only Magistrates and Judges in active duty may take part in these associations. No magistrate or judge may be affiliated to more than one association.
- 6) Professional associations of Magistrates and Judges of the Judicature will be validly created as from the moment they are registered in the Register kept to these purposes at the Council General of the Judiciary. Filing will be made at the request of any of the sponsors, who will have to submit its

by-laws and a list of affiliated members. Access to the register may only be refused when the association or its by-laws do not comply with the legal requirements thereon.

7) Bylaws must include at least the following provisions:

a) Name of the association

b) Specific ends

c) Organization and representation within the association. Its internal structure and functioning must be democratic.

d) Affiliation procedure.

e) Financial resources and dues.

f) Procedure for designating managing officers within the association.

8) Suspension or winding-up of professional associations will be subject to the general system for associations.

9) In default of a specific provision, the general legal provisions for associations will control.

CHAPTER V Financial independence

Article 402.

1. The State guarantees the financial independence of Magistrates and Judges by means of an adequate remuneration in view of their judiciary duties.

2. It will also provide with a Social Security scheme which protects Magistrates and Judges and their relatives during their active duty period and on retirement.

Article 403.

1. The remuneration system for Magistrates and Judges will be based on the principles of objective assessment, transparency and stability, considering the extent of their dedication to judicial duties, category and length of service in order to determine the appropriate consideration. The degree of responsibility attached to their office and their position will be also considered.

2. In all cases, remuneration paid to Magistrates and Judges will have a fixed component and a variable element based on meeting objectives which assesses their individual performance.

3. The fixed component is broken down in basic and supplementary pay items considering their category, length of service in the judicature of each of its members and the objective characteristics of their office. Basic pay includes salary and length of service. Supplementary pay items include place of residence allowance and specific allowances.

4. The variable component tied to objectives will refer to the individual performance of each magistrate or judge in their jurisdictional and professional duties.

5. Likewise, magistrates and judges may collect special pay if they perform duty magistrates tasks or extraordinary services without being discharged of their functions or replaced.

6. A statute will further develop on the basis of the foregoing paragraphs the remuneration scheme of the judicature officers.

Article 404

Together with all other remuneration items for Magistrates and Judges, the National Budget will include an annual chapter for Justices of Peace and other sums for judiciary staff as required pursuant to the provisions of this Act and to other requirements arising from the administration of justice.

Article 404 bis.

On the basis of the jurisdictional sovereignty principle embodied in article 123 of the Constitution and considering the collegiate nature of the activities carried out by Supreme Court judges in the terms of this Act, their remuneration will be established in accordance with the same scale applicable to other officers of the highest constitutional bodies considering the nature of their functions.

PART III Liability of Judges and Magistrates

CHAPTER I Criminal Liability

Article 405.

Criminal liability of Judges and Magistrates for offences or misdemeanours perpetrated in the performance of their judicial duties will be exacted pursuant to this Act.

Article 406.

Criminal liability proceedings against Judges and Magistrates may be filed either by an order issued by a competent Court or following a complaint lodged by the Public Prosecutor, the aggrieved or injured party, or by exercising popular action on behalf of public interest.

Article 407.

When the Supreme Court by virtue of the suits or legal proceedings or due to any other reason becomes aware of any actions carried out by Judges or Magistrates in the discharge of their duties which may be considered an offence or a misdemeanour, it will notify it to the competent court once the Public Prosecution has been heard in order to initiate appropriate proceedings. The High Courts of Justice and Provincial Courts will also act, where applicable, in this manner.

Article 408.

When other Judicial Authorities are aware in the course of the proceedings they are involved in of any offence or misdemeanour perpetrated by a Judge or a Magistrate in the discharge of their duties, they will inform of this to the competent Court or Tribunal once the Public Prosecution has been heard and the findings thereon will be submitted to that Court.

Article 409.

When the Council General of the Judiciary, the Government or any other body or authority of the State or a Regional Community considers that a Judge or a Magistrate has perpetrated an action in office which may be considered an offence or a misdemeanour, it will notify the Public Prosecution of this in order to initiate criminal proceedings, if appropriate, notwithstanding the provisions of Article 406 hereunder.

Article 410.

In the event that any of the parties to a suit, or any person with a legitimate interest in it file a complaint against the Judge or Magistrate who must enter a judgment with regard to said proceedings, prior to placing the aforementioned complaint on record, the competent body

conducting the inquiry will conduct an investigation as it deems expedient in order to determine its own competence on the matter and whether the findings attach any criminal liability and finally the likelihood of the charges made.

CHAPTER II Civil Liability

Article 411.

Judges and Magistrates will be civilly liable for all damages caused in the discharge of their duties if they act wrongfully or with gross negligence.

Article 412.

Civil liability may be exacted at the request of the aggrieved party or its successors in the course of appropriate legal proceedings.

Article 413.

1. A civil liability claim may not be filed until a final judgment has been entered on completion of the proceedings which allegedly causing those damages, or if the aggrieved party has not filed its claim thereunder if it had the occasion to do so.

2. Under no event, a judgment delivered in a civil suit may amend the final decision given in the main proceedings.

CHAPTER III Disciplinary Proceedings

Article 414

Judges and Magistrates may be subject to disciplinary proceedings in the cases and subject to the guarantees provided in this Act.

Article 415.

1. Disciplinary liability may only be exacted by the competent authority pursuant to the proceedings described in this Chapter.

2. Notwithstanding the opening of criminal proceedings this will not bar disciplinary proceedings from being initiated with regard to the same matters, but no decision will be given thereon until a sentence or a writ of non-suit has been entered in the course of the criminal proceedings conducted. In any event, the facts as found which puts an end to the criminal proceedings shall be binding for the decision given in the disciplinary proceedings, although the legal considerations thereof may vary in each proceeding.

3. The same findings shall only attach criminal and disciplinary liability when the legal considerations and protected rights differ in each case.

Article 416.

1. Infractions perpetrated by Judges and Magistrates in office are classified in very serious infractions, major and minor infractions.

2. Very serious infractions will become statute-barred after two years, major infractions after one year and minor offences according to the lapse foreseen in the Criminal Code for misdemeanours. The statute-barred period will be reckoned from the date in which the infraction was carried out. However, in the event foreseen in Article 417(5), the statute-barred period shall commence from the moment in which a final sentence has been rendered providing for the civil liability of the Judge or the Magistrate.

3. The statute-barred period will be interrupted as from the date in which the commencement of disciplinary proceedings is notified or when informative inquiries are conducted with regard to the conduct of a Judge or a Magistrate.

The statute-barred period will recommence if the inquiries or proceedings are stayed for a period of six months for reasons unrelated to the Judge or Magistrate subject to disciplinary proceedings.

Article 417

The following are considered very serious infractions:

1. Breach of duty of loyalty to the Spanish Constitution as provided under Article 5 hereunder when such breach has been established in a final judgment.
2. Affiliation to political parties or trade unions, or performing duties or services for them.
3. Provoking repeated serious incidents with the authorities of the judicial district in which the Judge or Magistrate sits for reasons outside the discharge of his judicial duties.
4. Unwarranted interference by means of orders or pressure in any sense in the exercise of the judicial functions of any other Judge or Magistrate.
5. Actions or omissions which have been considered in a final judgment to entail civil liability on the part of the Judge or Magistrate in the exercise of his office having appreciated misconduct or gross negligence on his part in the terms of Article 411 of this Act.
6. The exercise of any disqualifying activities for Judges or Magistrates as set out in Article 388 of this Act, unless they are deemed to be a major infraction as per Article 418 hereunder.
7. Further his appointment as Judge or a Magistrate for another Court or Tribunal when he is under of any the disqualifying circumstances foreseen in sections 391 to 393 of this Act, or continue performing his duties in those Courts without informing the Council General of the Judiciary about these circumstances which would entail obligatory transfer in the terms of Article 394 hereunder.
8. If the Judge or Magistrate does not provide for his own recusation in spite of being aware that he is under any of the legal circumstances that bar his cognizance of the suit.
9. Unjustified and repeated delay or disregard in initiating, conducting or deciding on any proceedings or suits or in the exercise of any of his judicial functions.
10. Taking leave of service in a continued and unjustified manner for seven or more calendar days, abandoning the seat of the jurisdiction where the Judge or Magistrate holds office.
11. Misrepresentation on the part of the Judge or Magistrate in order to obtain permits, authorizations, waiver of disqualifying circumstances, allowances or grants.
12. Disclosure by the Judge or Magistrate of findings or data which he has become aware of in the course of his judicial functions if it causes any damage in the conduct of any proceedings or to any party.
13. Abuse of authority to secure preferential treatment by authorities, officers or professionals.
14. Unforgivable ignorance in the discharge of his judicial duties.
15. Total and unjustified lack in providing an opinion in those judicial decisions which require it provided that such deficiency has been established in a final judgment. If the decision lacking the grounds may not be appealed, this will be a requirement to file a complaint by the parties of the suit.
16. Perpetration of a major infraction when the Judge or the Magistrate has been already sanctioned for two major offences which have become final without having been cancelled, or the corresponding entries thereof being cancelled, in the terms provided by Article 427 of this Act.

Article 418

The following are considered major infractions:

1. Disrespect to his superiors in the judicial hierarchy either in their presence or in a communication addressed to them, or in public.
2. Interfere by means of any recommendation in the exercise of judicial activities of other Judges or Magistrates.
3. Congratulate or reproach public authorities, officers or local bodies for any event invoking or availing himself of his office as a judge.
4. Amend the application or construction of the legal system made by lower courts of the judiciary except when they act in the exercise of their jurisdiction.
5. Abuse or exceed his judicial powers, acting in a derogatory manner with regard to citizens, institutions, clerks, coroners or other individuals working in the administration of justice, or to the Public Prosecutor, attorneys and barristers, labour counsellors and officers of the Judicial Police.
6. Use of unnecessary, unwarranted, extravagant or clearly disrespectful or offensive expressions in the legal opinion of the judgment delivered. In this case, the Council General of the Judiciary will only act on the basis of a testimony thereof or a communication issued by the higher court to the one which entered the aforementioned judgment and which is to hear the matter on appeal.
7. Refrain from exacting disciplinary liability for court clerks and subordinate officers when the Judge or Magistrate is responsible for hearing their breach of duty.
8. Disclosure by the Judge or Magistrate outside the judicial channels available of findings or information which they have become aware of in the course of their judicial duties when it is not deemed to be a serious offence as provided under Article 417 of this Act.
9. Taking leave of service in a continued and unjustified manner for more than three and less than seven calendar days, abandoning the seat of the jurisdiction where the Judge or Magistrate holds office.
10. Unjustified and repeated breach of the hearing's schedule or non-attendance to court proceedings involving notified public hearings when it is not considered as a very serious infraction.
11. Unjustified delay in conducting or handling proceedings or suits to be heard by that Judge or Magistrate when it is not deemed to be a very serious infraction.
12. Breach or disregard to any notices submitted by the Council General of the Judiciary, the President of the Supreme Court, the President of the State Court, by the Presidents of the High Courts of Justice or the Presidents of their Divisions in the exercise of their legitimate functions, or hinder their inquiries or investigations.
13. Breach of the obligation of drafting a court roll or list of pending matters as provided by Article 3 of this Act.
14. The exercise of any disqualifying activity foreseen in Article 389(5) of this Act, without having secured the appropriate authorisation or if it has been secured by means of fraudulent misrepresentation.
15. Unjustified self-recusation when so declared by the Board of Governance following the procedure set out in Article 221(3) of this Act.
16. Enter decisions which entail a clear procedural abuse or misrepresent the effective workload with regard to the benchmarking systems established by the Council General of the Judiciary.
17. Hinder inspection activities.
18. Perpetration of a minor infraction when the Judge or the Magistrate has been already sanctioned for two minor offences which have become final without having been cancelled, or the corresponding entries thereof being cancelled, in the terms provided by Article 427 of this Act

Article 419.

The following are considered to be minor infractions:

1. Disrespect to his superiors in the judicial hierarchy when it is not considered a major infraction.
2. Disregard or dismiss other equal or lower Courts, or act in a derogatory manner with regard to citizens, institutions, clerks, coroners or other individuals working in the administration of justice, or to the Public Prosecutor, attorneys and barristers, labour counsellors and officers of the Judicial Police.
3. Repeated or unjustified breach of the legal term to enter a judgment in any matters which are to be heard by the Judge or the Magistrate.
4. Taking leave of service in a continued and unjustified manner for more than one and less than three calendar days, abandoning the seat of the jurisdiction where the Judge or Magistrate holds office.
5. Breach or disregard to any notices submitted by the Council General of the Judiciary, the President of the Supreme Court, the President of the State Court, by the Presidents of the High Courts of Justice or the Presidents of their Divisions in the exercise of their legitimate functions, or hinder their inquiries or investigations.

Article 420.

1. The sanctions which may be imposed on Judges and Magistrates for infractions in the exercise of their judicial duties are set out herebelow:

- a) Warning.
- b) Fine of up to 6,000 euro.
- c) Mandatory transfer to another Court or Tribunal at least one hundred kilometres away from the one in which he had served office.
- d) Suspension of up to three years.
- e) Removal.

The Judge or the Magistrate who has been sanctioned with mandatory transfer may not take part in any advancement exams for a period of one to three years.

2. Minor infractions may be sanctioned with a warning or a fine of up to fifty thousand pesetas (300 euro) or both; major infractions with fines from three hundred and one euro to three thousand euro; very serious infractions may be sanctioned with suspension, mandatory transfer and removal.

3. Sanctions imposed for very serious infractions will become statute-barred after two years; in the case of major offences the statute-barred period is one year and for minor offences the statute barred period is the one foreseen in the Spanish Criminal Code for misdemeanours.

The foregoing statute-barred periods will be reckoned from the next day to the one in which the decision imposing these sanctions became final.

Article 421.

1. The following bodies are competent for imposing the aforementioned sanctions:

- a) Warning sanctions may be passed by the President of the Supreme Court, the President of the State Court and of the High Courts of Justice to the Judges and Magistrates who are below them.
- b) In the case of fine or warning and fine for minor infractions, the Boards of Governance of the Supreme Court, of the State Court and of the Supreme Courts of Justice which regard to the judges and magistrates under them.
- c) Sanctions for major offences are passed by the Disciplinary Commission of the Council General of the Judiciary.
- d) Sanctions for very serious offences are imposed by a Plenary Session of the Council General of the Judiciary following a proposal of the Disciplinary Commission.

2. Notwithstanding, the bodies mentioned in the aforementioned rules may impose lesser sanctions to those vested in them when on examination of a file initially submitted to them they find that the findings merit a lesser sanction.
3. Sanctions imposed by the competent authorities and bodies must take into account that a fair correlation exists between the nature of the breach and the sanction imposed.

Article 422

1. A warning sanctioned is imposed with no further proceedings than prior hearing of the party in question and on the basis of a summary investigation.
Any resolution passed thereon may be appealed by the party found in breach by means of an administrative appeal if he deems it expedient or else that party may directly resort to the contentious-administrative courts pursuant to the rules of procedure established in the law that governs such jurisdiction.
The other sanctions may be imposed pursuant to the procedure established in the following sections of this Act.
3. Sanctions contemplated in Article 421.1.d) of this Act will be imposed by the Council General of the Judiciary following a proposal by the Disciplinary Commission, following a hearing of the Judge or Magistrate to which such proceedings refer who may file whatever pleadings and documents he deems expedient within a term not under 10 days nor above 15 days if the proposal differs from the one made by the Examining Judge.

Article 423

1. Disciplinary proceedings will be conducted ex officio in all its stages and shall commence following a proposal made by the Board of Governance or the President, as the case may be of the Disciplinary Commission or the Plenary Session of the Council General of the Judiciary, or on its own initiative based on an order or a petition stating the grounds for such request made by another body, or following a complaint lodged. The Public Prosecutor may also initiate them.
2. Any complaint on the functioning of the Judicial system in general or on any actions carried out by Judges or Magistrates in particular will be the object within the term of one month of a report by the Head of the Inspection Services of the Council General of the Judiciary which will decide on whether to file the proceedings, open an inquest or directly file for disciplinary proceedings.
3. The reasoned decision issued by the Board of Governance or the Disciplinary Commission on whether to initiate proceedings will be notified to the complainant who may not challenge it by means of an administrative appeal notwithstanding his right to seek remedy at the appropriate jurisdiction.
If disciplinary proceedings are opened, the complainant will be notified of any decisions passed thereon and he may file pleadings in the course of these proceedings, but he may not challenge the decision by means of an administrative appeal notwithstanding his right to seek remedy at the appropriate jurisdiction.
4. The resolution passed moving for the opening of proceedings will appoint an examining judge of at least the same rank as the one against whom the proceedings are conducted. Following a proposal by the aforementioned examining judge, a Secretary may be appointed to him.

Article 424

1. The Disciplinary Commission or the Council General of the Judiciary at its own initiative, after having heard the examining judge or on the basis of a proposal made by the latter, once the Judge or Magistrate charged has been heard, as well as the Public Prosecutor, may within a joint term of five

days decree the temporary suspension of the indicted judge for a maximum period of six months when there is reasonable evidence to support the charge of a very serious offence.

2. The Judge or Magistrate so charged may challenge the foregoing resolution by filing an appeal for revision before the Plenary Session of the Council General of the Judiciary in the terms provided under sections 142 and 143 of this Act.

Article 425.

1. The Examining Judge will conduct the discovery of evidence and carry out all acts required to determine and verify the facts and liabilities thereon that may entail a sanction; the Public Prosecution Services will be party to these proceedings and also the party in question who may avail himself of legal counsel from their commencement.

2. In view of the evidence gathered and the investigations carried out, the examining judge will draft a statement of counts recording the findings challenged, the infraction allegedly perpetrated and the potential sanctions for such misconduct.

The statement of counts will be notified to the indicted party so that in the term of eight days he may request the discovery of evidence he considers appropriate which will be decided on by the examining judge.

3. Following the defence filed to the statement of counts, or if the aforementioned term elapses and no defence has been filed, the examining judge following a hearing with the Public Prosecutor shall submit a draft resolution clearly determining the facts, the legal considerations thereon and the appropriate sanction to be imposed. The draft resolution will be notified to the indicted party so that within the term of eight days he may file any pleadings in his defence.

4. On completing of the foregoing requirement, or if the term for it has elapsed, the file will be dispatched to the authority who decreed the opening of proceedings for its resolution. If this authority deems it necessary to apply a higher sanction within the range of sanctions vested in its competence, it will submit the file and its proposal to the competent authority.

5. The competent authorities may return the file to the examining judge in order to include additional counts in his statement of counts, or so that he completes his inquiry or notifies the indicted party of a proposal that implies a more serious sanction.

6. The term of sanctioning proceedings will not exceed six months. When, in view of exceptional circumstances, the term is extended, the examining judge must inform every ten days of the stage of the proceedings and the reasons for being unable to complete them to the authority who had decreed their commencement.

7. The resolution which puts an end to disciplinary proceedings must state the legal grounds for the decision rendered and may not take into account other facts than those ones which have been considered for the resolution given, notwithstanding their diverse consideration from a legal point of view provided that they do not entail a higher sanction.

8. The resolution passed must be notified to the party against whom the proceedings were directed and to the Public Prosecutor who if the decision has been rendered by the Board of Governance or the Disciplinary Commission may file at their choice either an administrative appeal or appeal directly before the contentious-administrative jurisdiction. The complainant, where applicable, will also be notified but he may only appeal before the contentious-administrative courts.

Article 425 bis.

1. Rules applicable to self-recusation and recusation established in sections 28 and 29 of the Public Administrations General Act will apply to the examining judge and the secretary.

2. The right of challenging the examining judges may be exercised as from the moment the interested party is aware of the formal identity of the examining judge and the secretary.

3. Self-recusation and recusation may be invoked before the body which decided on their appointments following which after having heard the examining judge and secretary will enter a decision within the term of three days.
4. With regard to the resolutions adopted on self-recusation and recusation no appeals are available, notwithstanding the right of the interested party to move for recusation in the appropriate plea filed against the decision which puts an end to disciplinary proceedings.

Article 426.

1. Disciplinary sanctions will be recorded in the personal file of the offender, describing the circumstances leading to said proceedings.
2. The Authority who imposed them will ensure that the foregoing is complied with.

Article 427.

1. Entry of warnings made will be cancelled after six months reckoned from the date in which such decision became final if during that time the offender has not been involved in any disciplinary proceedings which finalised with a sanction.
2. Entry of the foregoing sanctions, except for removal, may be cancelled at the request of the offender after the Public Prosecutor has been heard after one, two or four years have elapsed since the sanction was imposed depending on whether the infraction was a minor, major or a very serious one and if during that time the offender has not been subject to any further disciplinary proceedings that ended with a sanction being imposed.
3. Cancellation will remove the record of any sanctions to all purposes.

PART IV Judges under a temporary appointment

Article 428.

1. A temporary appointment may be made for vacancies to judicial office which have not been covered by merits' contests until they are covered by ordinary proceedings.
2. Notice of public examinations must include all vacancies, including those currently held by magistrates with a temporary appointment. These positions must be advertised in transfer appointments available at least once a year.

Article 429.

The Boards of Governance of the High Courts of Justice shall evaluate if judicature vacancies may be adequately provided for by deputy magistrates, by extending the jurisdiction of an incumbent judge or by secondment, or if these measures are sufficient to guarantee their functioning. In this case, a list of judges which require immediate provisional appointments will be submitted to the Council General of the Judiciary attaching a report indicating the reasons underlying that request.

Article 430.

The Council General of the Judiciary on the basis of the foregoing report and the available background will decide on whether it will apply the extraordinary provision mechanism contemplated in this Section notifying its decision to the corresponding Board of Governance.

Article 431.

1. When this provision system is authorised, the Board of Governance of the High Court of Justice will announce all vacancies to be covered by this procedure within the Autonomous Community in which only holders of a law degree may take part who request one, several or all the positions advertised and who meet all other legal requirements to become members of the Judiciary except for the ones applicable to age of retirement. A person who has reached the age of seventy-two may not be proposed nor act as a provisional magistrate.

2. Candidates who have more merits according to the following standard will be preferred, provided that they are not under any circumstances which would make them unsuitable:

a) Doctors of Law.

b) Individuals who have performed judicial functions, either as Court Clerks, or deputising for public prosecutors or with attested capabilities or who have acted in other areas of the legal profession.

c) Those who have passed public examinations to hold any office within the Public Administration which require that the candidate should have a law degree.

d) Those who establish that they have been teachers of law in university institutions.

e) Candidates with the best academic record.

f) In Autonomous Community with their own legal system and language, their knowledge will be considered a specific merit.

The foregoing merits will be evaluated to ensure than none of them may exceed the joint assessment of any two of them combined.

3. Appointments will be notified to the Council General of the Judiciary who will void them if they do not comply with the law.

Article 432.

1. Individuals who have been appointed temporary judges will be subject for the term they performed such appointments to the legal statute of members of the judicial career and will be entitled to collect the remuneration foreseen in the regulations issued by the Government within the budget provisions.

2. Appointments will be made for one year and may be extended for one additional year pursuant to the same procedure, except as foreseen in Section 1, indent e) of the next Article.

Article 433.

1. Individuals who hold a provisional judicial appointment will cease from office:

a) When the term of their appointment elapses.

b) Resignation accepted by the Board of Governance which appointed them.

c) When they attain seventy-two years of age.

d) Following a decision of that Board when they are not under any disqualifying, incompatibility or prohibition circumstances established in this law, following a summary hearing with the candidate and with the Public Prosecutor.

e) By a resolution of the Board when they are unable or unsuitable to hold office or when they do not comply in a diligent manner with the duties arising therefrom with the same guarantees as to the procedure for that resolution which have been listed in the previous indent.

f) When an incumbent judge has been appointed to hold that position on a temporary basis.

2. Any removals regardless of the circumstances which led to it must be reported to the Council General of the Judiciary.

PART V On-going training of Magistrates and Judges

Article 433 bis.

1. The Council General of the Judiciary will ensure that all Magistrates and Judges will receive on-going, individualised, specialised and high-quality training throughout their professional career.
2. The Council General of the Judiciary will establish an On-going Training Plan for the Judicial Career by passing regulations thereof detailing objectives, contents and training priorities.
3. Each member of the Council General of the Judiciary will benefit from a Specialised On-going Training which will set out for five year periods the training objectives, ensuring fully adapted teaching to the latest legal innovations which have an effect on judicial duties. Compliance with objectives of the Specialised Training Plan for each of the Magistrates and Judges will be evaluated by the Council General of the Judiciary as provided in the regulations to the purposes of promotion and rank.
4. The Judiciary School will develop programmes and provide training courses which implement the Training Plan in the Judicial Career and they may conduct training activities in a de-centralised manner within an Autonomous Community or a province collaborating with expert bodies and entities to the purpose of conducting training efforts.

PART VI The Legal Studies Centre of the Administration of Justice

Article 434.

1. The Legal Studies Centre of the Administration of Justice is a public law entity with its own legal personality under the supervision of the Ministry of Justice.
2. Its mission is to collaborate with the Ministry of Justice in the selection, initial and on-going training of Prosecutors, Court Clerks and other staff involved in the administration of justice.
3. By means of regulations the organization of the Centre will be established as well as appointment of its senior officers. The Centre will have permanent relations with the competent bodies of the Autonomous Communities.

VOLUME V JUDICIAL CLERKSHIP AND THE CLERK'S OFFICE

PART I Organization and functioning system of the judicial administration at the service of Judges and the Courts

CHAPTER I The Clerk's Office

Article 435.

1. The Clerk's Office is an instrumental organization which provides assistance and support to the judicial activities of Magistrates and Judges.
2. The basic structure of the Clerk's Office will be the same throughout the territory of Spain as a consequence of the single judicature system to which it serves based on the principles of hierarchy, division of functions and coordination.
3. The Clerk's Office will operate observing the following criteria: rapid response, efficacy, efficiency, streamlining work procedures, accountability and cooperation between public bodies to ensure that citizens may obtain a close and competent service fully compliant with the principles entrenched in the Charter of Citizen Rights to Justice.
4. Positions at the Clerk's Office may only be covered by personnel who work as civil service in the Justice Department and will rank according to their respective job descriptions.

Article 436.

1. The basic organizational element of the Clerk's Office will be a unit which includes all positions reporting to it and linked to such unit by virtue of its tasks.
2. Considering the different functions two types of units will be differentiated: procedural direct support units and common procedural units. The main activity of these units is to apply procedural rules.
3. The design of the Clerk's Office will be flexible. Its dimension and organization will be determined by the competent Public Administration in view of the activity effectively carried out by it.
4. The Clerk's Office may provide support to other bodies within the territory of Spain, of the Autonomous Community, the province, the judicial district or the council, and its scope of competencies also includes the bodies to which it provides support. Its scope of competencies may include a borough.
5. Units included in the Clerk's Office may perform their functions at the service of different bodies of the same jurisdiction, of several jurisdictions or specialised bodies but under no event the scope of the Clerk's Office may modify the number or composition of the judicial bodies which make up the judicial staffing system nor its territorial organization established by law.
6. Magistrates and Judges with regard to legal proceedings which they are competent to hear may request at any time from the officer in charge all information they deem necessary.

Article 437.

1. To the purposes of this Public General Act, a direct support procedural unit is considered to be a unit within the Clerk's Office which provides direct support to Magistrates and Judges in their respective duties conducting all necessary procedures to that purpose and ensuring effective enforcement of all decisions given by them.
2. There will be as many direct support procedural units as Courts, or when applicable, divisions and sections of Courts which already exist and are operating; such units with the incumbent judge for that division or section is known as a judicial body.
3. Direct support procedural units will have a Court Clerk who will exercise all functions and duties vested in him. In view of streamlining the existing workload, a Court Clerk may provide assistance to more than one unit.
4. Each unit will have also the necessary staff to provide service to the body it serves according to the type of jurisdiction it belongs and the headcount will be determined in the Staffing Roll.
5. The Ministry of Justice following a report by the Council General of the Judiciary and from the Autonomous Community which have competencies in this area will determine the basic staffing of these direct support procedural units in order to guarantee in any case an adequate functioning of the judicial body.

Article 438.

1. To the purposes of this Act, common procedural services refers to any unit within a Clerk's Office which without belonging to a specific judicial body handles all centralised management duties and provides support to proceedings arising from the application of procedural laws.
2. They will provide support to all or some judicial bodies within the scope of their territory regardless of the type of jurisdiction to which they belong and the extent of that jurisdiction.
3. The Ministry of Justice and the Autonomous Communities in their respective territories will be competent for the design, creation and organization of common procedural services with duties of

filing and distribution, notices, judicial cooperation, enforcement of judicial decisions and voluntary jurisdiction acts. The Board of Governance and the Judges' Association may request from the Ministry and the Autonomous Communities to create common services pursuant to their specific requirements. Moreover they may create common procedural services in order to coordinate court proceedings or for other functions that the ones listed above provided that it has been authorised by the Council General of the Judiciary.

4. Common procedural services in view of the activities carried out may be divided into sections which will be suitably staffed and these sections may also be organised into teams.

5. In charge of each common procedural service created within a Clerk's Office there will a Court Clerk to whom all other court clerks will report to as well as all personnel appointed to each of the positions for that department which in any case must be sufficient in number and suitable for the functions which must be carried out.

6. The Court Clerk who supervises a common procedural service must comply within his specific organizational and functional jurisdiction with the orders and guidelines provided by the officers to whom he reports. In the jurisdictional area, they will guarantee strict compliance with any actions or decisions adopted by courts or tribunals within the exercise of their faculties.

7. The Council General of the Judiciary may establish general guidelines to ensure standardised procedures for common procedural services of the same nature throughout the Spanish territory which may not in any case have any impact on the jurisdictional competencies of Public Administrations in the area of the administration of justice.

CHAPTER II Administrative Units

Article 439.

1. To the purposes of this Act an administrative unit is such which without being part of a Clerk's Office is created in the sphere of the administration of justice for supervising, structuring and managing human resources of the Clerk's Office when vested with these competencies and also over IT technologies, new technologies and other material resources.

Likewise, within these units, the Ministry of Justice and the Autonomous Communities in their respective areas may create common offices providing support to one or several clerkships if it is considered necessary or convenient for their adequate functioning.

2. Each Administration in its own specific territory is responsible for the design, creation and organization of the necessary administrative units and support offices, establishing who they will become integrated in the Public Administration in question, its scope of action, hierarchical structure, provision of job descriptions and its endowment in terms of financial resources to ensure their start-up and operation.

3. The positions within these Administrative Units will be established by the Ministry of Justice and the Autonomous Communities within the sphere of their respective competencies and may be covered by personnel working for the Administration of Justice or for the Administration of the State or of the Autonomous Communities provided that they meet the requirements and conditions established in their respective job descriptions.

4. Officers performing duties in judicial officers, except for Court clerks, notwithstanding the functional reporting structure will report in terms of organization to the Ministry of Justice or to the Autonomous Communities which have competencies in these areas.

PART II The Court Clerk's Body

CHAPTER I Personal Statute

Article 440.

Court clerks are public officers who are part of a single Upper Judicial Body for all the Spanish territory at the service of the administration of justice and reporting to the Ministry of Justice. They discharge their duties as a public authority.

Article 441.

1. The Court Clerk's Body will have three categories, and entry to this body is made through the third category.
2. Each court clerk will be assigned a personal category. Under no event a court clerk of third category may opt for a clerkship position of first category.
3. Consolidation of a personal category requires performance of duties for that office during an on-going five year period of seven years with interruption.
4. In order to hold vested rights in a higher category it is necessary to have vested rights in the lower category.
5. The vested category determines the applicable remuneration regardless of the effective job position.
6. To these purposes, the Ministry of Justice will establish three groups in which the different job descriptions for court clerks will be included.

Article 442.

1. The officers of the Clerkship Body will be selected by means of a public examination convened by the Ministry of Justice which will be ordinary system of access or by a public exam and merits contest which will be exceptional and in which the papers related to knowledge of the different areas will be the same as for the public examination. Both procedures should guarantee in any event the principles of equal opportunities, capacity and publicity in the manner contemplated in this Public General Act and in its enabling regulations.
2. Fifty per cent of vacancies of the Clerkship Body will be reserved for their allocation by internal promotion following the system of merits contest and examination of civil servants working in the procedural and administrative management body and who have been working thereat for at least two years of effective service. To these purposes, the services rendered in the body of judicial officers at the service of the public administration will be credited to them as the case may be. Other vacancies, increased by those vacancies which have not been covered by internal promotion, if any, will be covered by public examination or where applicable public exam and merits contest.
4. In order to be appointed to the Clerkship body regardless of the access system it is necessary to be Spanish, of legal age, hold a degree in law and not be under incapacitating or disqualifying circumstance. The candidate will have to pass the selective tests established and the appropriate theory and practical course which may also be selective.

Article 443.

1. In order to be a court clerk the following requirements on a subsequent basis must be complied with:
 - a) Meet all requirements and comply with the conditions established in the public announcement.
 - b) Pass the selective tests
 - c) Appointment issued by the Ministry of Justice and published in the "Official State Gazette".

- d) To swear or to promise to perform the duties of office in a faithful manner and defend and uphold the Constitution as the cornerstone of the legal system.
 - e) Take possession of office within the established term.
2. A court clerk will lose such condition in the following cases:
- a) By voluntary resignation in writing and expressly accepted by the Ministry of Justice
 - b) Loss of Spanish nationality.
 - c) Disciplinary sanction leading to being removed from office.
 - d) Final or special disqualification from holding office imposed as the main or accessory conviction by the courts.
 - e) Voluntary or mandatory retirement or permanent incapacity for office.
 - f) Conviction leading to imprisonment for more than three years due to having perpetrated a malicious offence.

Article 444.

- 1. Officers of the Clerkship Office will have equal individual and collective rights and duties to those established in Volume VI of this Public General Act.
- 2. The aforementioned system will be applicable to deputy court clerks insofar that such rights allow it and they will be included for Social Security purposes in the General Social Security Scheme.

Article 445.

- 1. The administrative status of a court clerk and retirement provisions will be the same and will so declared in the cases and with the effects contemplated in this Act for magistrates and judges.
- 2. They will be subject to the same incapacitating and disqualifying circumstances and prohibitions that those foreseen in Article 395 hereunder.

Article 446.

- 1. Court clerks must abstain from taking part in proceedings in the same cases and the ones established for magistrates and judges, otherwise, they may be challenged.
- 2. Abstention will be submitted in writing stating the grounds for it to the magistrate or judge in the event of a court or to the Chief Justice in the event of a Division or Section or to the Senior Judge if he performs his duties is a centralised body, who will decide respectively on the matter.
If the abstention is upheld, the court clerk who has abstained from the proceedings must be replaced by the alternate court clerk foreseen in law; if it is dismissed, he must continue acting in the proceedings.
- 3. Recusation provisions established in this Act for magistrates and judges will apply to court clerks with the following exceptions:
 - a) Recusation against court clerks may not take place while they are conducting any proceeding or action which fall under their responsibility.
 - b) The recusation incident will be conducted and solved by the same magistrates and judges who are competent to hear about his abstention.
 - c) On filing the recusation motion, the court clerk under this circumstance will inform in writing and in detailed manner on whether he accepts as true and legitimate the grounds of recusation invoked.

d) When the challenged officer accepts the recusation grounds, the Court will enter a writ without further proceedings considering him under recusation if the grounds for it are legal. If the court considers that it is not based on any of the circumstances foreseen by law, it will decree that the recusation motion must be dismissed. This writ is not subject to further appeal.

When the challenged officer denies that recusation grounds exist, the motion will be conducted according to article 225(3) of this Act.

Article 447.

1. Remuneration falls into two categories: basic and supplementary items.

2. The basic remuneration items are the same than the ones established by this Act for the judicial career.

3. The supplementary remuneration items are the following:

a) General allowance based on the position occupied which remunerates the general characteristics of such office;

b) Specific allowance based on the position which is unique for each job description and takes into account the particular conditions of same;

c) Productivity incentive exists in order to remunerate special performance, extraordinary activities, the interest or the initiative of the public officer while performing his duties and his participation in specific action programmes and achievement of objectives set out by the Ministry of Justice having heard the Council General of the Judiciary and following a negotiation with the most representative trade unions. This incentive may also remunerate participation of court clerks in programmes or achievement of objectives determined by Autonomous Communities with competencies in justice for their territory, although a prior authorization from the Ministry of Justice must exist for this.

To that purpose, the necessary coordination mechanisms will be set up between the competent public administrations.

d) Ex gratia payments in consideration for extraordinary services rendered outside normal working hours.

4. Notwithstanding the remunerations listed above, court clerks may also collect the following remunerations which are considered of special nature:

a) Payment for duty services.

b) When acting in surrogate duties whereby they perform their own incumbent duties and other additional functions.

These remunerations are compatible with all salary items foreseen above.

5. Deputy court clerks who are not professional officers will collect the remuneration applicable to their job description except for seniority benefits.

Article 448.

1. The amount of the remuneration will be established for each category of the Clerkship body and length of service will be remunerated by a subsequent rise of five per cent of the initial salary corresponding to the category through which they gained access to this body for every three years of service. In any case, three-year benefits will be recognised for those court clerks who formerly rendered their services in the now extinct Labour Courts Clerks. Court clerks are entitled to two extraordinary payments every year equal to one month salary and the seniority benefit and where applicable a pro rata amount of their office allowance in the terms established by law for the administration of justice which will be paid in June and December, provided that the recipients are on active service in those dates and this payment will accrue on the first day of each of the aforementioned months.

2. The amount of the basic remuneration and the general allowances of office in the terms established by the National Budget for each year.
3. The Government by means of a Royal Decree following a joint proposal of the Ministries of Justice and the Exchequer will determine the different positions ascribed to court clerks to the purposes of the general allowance of office and the initial allocation of specific allowances and remuneration arising from acting in surrogate duties that entail performing additional duties to the one of their office.
4. The specific individual amount for productivity and the number of civil servants who are entitled to collect it will be determined by means of resolution passed by the Ministry of Justice following a negotiation with the most representative trade unions.
5. A ministerial order, following a joint proposal made by the Ministers of Justice and the Exchequer following a negotiation with the most representative trade unions will determine the remuneration for duty work.
6. Individual allocation of ex gratia payments and criteria to be entitled to them will be determined by a resolution passed by the Ministry of Justice.

Article 449.

1. Officers who are in their training period or taking part in selective training courts described in article 485 hereunder will be appointed trainee civil servants and will collect a remuneration equivalent to the wages and extraordinary payments for court clerks of third category.
2. Trainee officers who are already performing remunerated services in the public administration may not collect any remuneration for their original position and may opt for a remuneration equal to the amount they were entitled to in their original position or to which they would have been entitled as a trainee officer pursuant to the foregoing section.
3. If training is carried out while performing the duties of a position, the amount mentioned in paragraph 1 hereunder will be increased by the allowances paid for that position.

Article 450.

1. The provision of work positions will be made directly by a merits system which will be the usual procedure. In the event of senior positions or which entail a special responsibility, they may be covered by discretionary appointment.
Appointment of court clerks for positions located in the territory of an Autonomous Community with competencies in this area which are to be covered by this procedure will require a report by the competent body from that Community.
In any event, the provision system must be determined in the corresponding job descriptions.
2. Exceptionally, when the requirements of the service make it advisable, job positions may be covered on a temporary basis by provisional appointments or secondment.
3. By means of regulations, the rules and requirements applicable in order to conduct this provision of work positions will be established. In any event, in order to take part in the contest, it is necessary that at least a minimum period of two years has elapsed since the date of the resolution which convened the transfer contest in which the officer obtained his last final office from which he takes part in this new contest or in the case of officers who have just joined the civil service from the date of resolution in which a final appointment was given to them. Court clerks who do not have a final appointment, and are obliged to take part in transfer proceedings according to the current enforceable regulations are excluded from this time limitation.
4. In those Autonomous Communities which have special or regional civil law provisions and their own language, their knowledge will be considered a merit.

Article 451.

1. Replacements due to absence, illness, suspension or vacancy of clerkship will be covered by whoever has been so designated by their supervising officer.

2. This designation may only fall on another court clerk or on a deputy court clerk who will perform the functions foreseen in this Act for court clerks in spite of not belonging to that body, their appointment is provisional and not tenured although they will have the same rights and obligations as the incumbent officer and with the same scope.

In this second case, the Ministry of Justice will determine the requirements and procedure for their appointment and removal.

3. Exceptionally when there are not enough court clerks, in the event of entry and search orders for closed premises decreed by a sole judicial body of the National Court, and which must be carried out simultaneously, the officers of the Procedural and Management Body may act in the capacity of public attestation officers and draw up the corresponding certificate deputising for the court clerk.

CHAPTER II Functions of court clerks

Article 452.

1. Court clerks will discharge their duties in compliance with the rule of law and fair principles, with vested authority and independence in the exercise of judicial attestation faculties, unity of proceedings and hierarchical reporting structure in all duties entrusted to them by this Act and their respective procedural regulations and the Statute for this body. Functions of court clerks will not be subject to delegation nor authorisation, notwithstanding the provisions of article 451(3).

2. In the performance of their duties, court clerks will ensure and guarantee that all decisions passed by magistrates and judges in the exercise of their authority are duly enforced.

3. Court clerks will collaborate with Autonomous Communities which have competencies in the area of justice for the full efficacy of the functions which they hold in terms of human and material resources following the instructions which they may receive to that purpose for their higher officers. For a better coordination, Joint Committees of Court Clerks and representatives of Autonomous Communities vested with competencies in this area may be created within their respective territories.

Article 453.

1. Court clerks are vested with the exclusive and full faculties to provide judicial attestation. Within the exercise of this function, they will place on record all procedural acts of the court or before it and of any actions which may be relevant to the proceedings by the appropriate certificates and entries.

When technical recording resources are used, the court clerk will guarantee the authenticity and accuracy of all the recorded material.

3. They will authorise and place on record the execution of powers of attorney to appear before the Court in the terms established in procedural laws.

Article 454.

1. Court clerks are responsible of recording duties vested in them and in the opening of proceedings and files recording the decisions given by the magistrates and judges, or themselves when so authorised by law.

2. Court clerks will exercise faculties of organization, management, inspection and supervision of the staff in terms of procedural technique ensuring at all times coordination with the governing

bodies of the Council General of the Judiciary and with the Autonomous Communities which have competencies transferred to them in this matter.

3. They will ensure that distribution of suits is made pursuant to the rules approved by the Board of Governance of the High Courts of Justice and they are responsible for the adequate operation of the documents filing issuing the appropriate certificates on this matter which may be required by the parties.

4. They will provide to the interested parties and to any person who establishes a legitimate and direct interest any information on the current stage of court proceedings which have not been declared secret and confidential.

5. They will encourage the use of technical, audiovisual and information technology filing systems in the unit where they render their services.

Article 455.

The court clerk is responsible for accountability of his office which will be made in the manner established in the procedural laws.

Article 456.

1. The court clerk will ensure that the proceedings advance towards their conclusion in the terms established in procedural laws.

2. To that purpose, he will issue the necessary orders for the conduct of proceedings except in those cases when such decision is vested in the judge or in the court. These orders will be referred to as preparatory inquiries for organization, recording, notifying or enforcement. Organization orders may be appealed before the judge or the reporter judge as foreseen in procedural laws.

3. Court clerks when so foreseen by procedural laws will have competencies in the following areas:

a) Enforcement except those competencies which procedural laws have vested in magistrates and judges;

b) Voluntary jurisdiction, handling and resolving thereon notwithstanding any appeals which may be available;

c) Conciliation, acting as mediators.

d) Any others expressly foreseen.

4. A decree is a resolution given by the court clerk to complete a procedure over which he holds exclusive competence or when it is necessary or convenient to explain the grounds for his decision. It will always include a reasoning in separate and numbered paragraphs with reference to findings and legal considerations.

Article 457.

Court clerks will be in charge of technical procedural aspects of the staff working at the Clerk's Office and he will coordinate their activity, giving instructions and orders as may be required in order to exercise this authority.

Article 458.

1. Court clerks are responsible for the Judicial Administration File which pursuant to current legal provisions on this matter will be used for filing and safekeeping of all proceedings or files which have not been completed except for the time they are held by the magistrate or the reporter judge or by other judges of the bench.

2. A Royal Decree will establish the rules governing the classification and filing of proceedings and documents which are not pending of further procedural action and expurgation procedure.
3. The Ministry of Justice will determine which books are to be kept at the courts and tribunals establishing the regulations applicable to the way they are to be kept.
4. The court clerk will be responsible for keeping the records and books by means of appropriate information technology systems and in default of this system, manually, by giving the necessary instructions to his staff.

Article 459.

1. Court clerks are responsible for the deposit of property and items which are part of the judicial proceedings and for the pieces of evidence in criminal proceedings at special storage rooms. All the above notwithstanding any exceptions established in regulations for their allocation in specific cases.
2. Court clerks will be held liable for the deposit in the institutions which will be determined of any sums of money, securities, bails and bonds given, following the instructions received thereon.

Article 460.

Court clerks will collaborate with the Tax Authorities for the administration of taxes as foreseen in the specific regulations on this matter.

Article 461.

1. Judicial statistics prepared according to the criteria which will be established shall be the responsibility of court clerks. The respective Governance Secretaries of the Court will ensure that the data has been effectively attested.
2. Judicial statistics are a key tool at the service of the public administrations and of the Council General of the Judiciary for the administration of justice and in particular for the following ends:
 - a) Implement the legislative policy of the Government in the area of justice;
 - b) Modernisation of the judicial organization;
 - c) Planning and management of human and material resources for the administration of justice.
 - d) Exercise of supervisory competencies over Courts and Tribunals.

Judicial statistics will ensure in a transparent framework the permanent availability and on an equal footing basis by the Parliament, the Government, the Autonomous Communities, the Council General of the Judiciary and the State Attorney General of updated and reliable information which has been duly attested on the activity and work load of all bodies, departments and judicial offices in Spain, and on the statistical parameters of the matters which have been submitted to them. Citizens will have full access to judicial statistics.

3. The National Commission of Judicial Statistics will include the Ministry of Justice, representatives from Autonomous Communities which have competencies in this area, the Council General of the Judiciary and the State Attorney General in order to establish standard criteria which are mandatory for all on capturing, information treatment, transmission and exploitation of statistical data on the Spanish judicial system.

The structure, composition and functions of the National Commission of Judicial Statistics will be established by the Government by means of regulations embodied in a Royal Decree, following a report from the Council General of the Judiciary, the State Attorney General, the Spanish Data Protection Agency and the Autonomous Community which are competent in this area.

4. Notwithstanding the above, Public Administrations with competencies in the area of the administration of justice may exploit other statistical data which they may have obtained through their IT systems when they deem it necessary or appropriate for their own administrative purposes.

Article 462.

Court clerks will assume all other functions establish by law or by the regulations.

The Judicial Clerkship Body

Article 463.

1. Ultimately supervised by the Ministry of Justice, the Clerkship Body is classified by rank as determined in the corresponding Roll of Job Descriptions. In this sense, they will pursue all functions of similar nature which are vested in this body arising from the position they hold and which have been entrusted to them by their supervisors.

2. The supervising bodies are the following:

a) The Governance Secretary.

b) The Provincial Coordinator Secretary.

3. When several court clerks render their duties at a common procedural service, the Roll of Job Descriptions will determine their hierarchical and functional levels.

4. As an instrument for democratic participation of the Clerkship Body, a Judicial Clerkship Council will be created within the Ministry of Justice with consultation functions in matters referred to that body. Their organization, functioning and competencies will be developed by means of regulations.

Article 464.

1. A Governance Secretary will exist in the Supreme Court, in the National Court and in each High Court of Justice, as well as in the cities of Ceuta and Melilla, chosen among members who are part of the Judicial Clerkship Body which have secured at least a second category appointment and with ten years service in that body who will also perform the duties of Secretary to the Board of Governance of that Court.

2. The Governance Secretary will be in charge as the senior officer of supervising the court clerks who perform their services at the judicial offices of those Courts and in the cities of Ceuta and Melilla. To that purpose, he will exercise the competencies vested in him by this Act as well as all others established by the corresponding regulations.

3. He will be freely appointed and removed by the Ministry of Justice. The appointment will be made following a proposal by the competent body of the Autonomous Communities when they have competencies in the administration of justice and they may also request his removal.

In any event, for such appointment, a report will be requested from the Board of Governance of that Court and from the Judicial Clerkship Council. For the cities of Ceuta and Melilla, the report will be prepared by the Board of Governance of the High Court of Justice of Andalusia.

To be appointed Governance Secretary of the Supreme Court or of the National Court, a report will be required from their respective Boards of Governance.

4. In the event of absence, illness, suspension or vacancy of the position of Governance Secretary of the Supreme Court or the State Court, or of the cities of Ceuta and Melilla, the most senior Court Clerk will assume those functions. In these same cases and with regard to the Governance Secretary of the High Courts of Justice, the Coordinator Secretary of the province where such Court has its seat will assume those functions and in default of this, the most senior Court Clerk in that category.

5. Governance Secretaries will be ascribed to the court from which they are removed until they secure another position, or they will be ascribed to a body of the same category in the city from

which they held their last appointment, being entitled to choose with pre-emptive right between all positions of their category which must be covered in the next two years by merits contest.

6. Competent public administrations in their respective territories will provide the Governance Secretaries with human and material resources to exercise the functions which have been vested in them.

Article 465.

Governance Secretaries will have the following competencies

1. Inspection of departments which fall under the responsibility of court clerks of their respective competencies, notwithstanding the authority of the Council General of the Judiciary, of the Governance Divisions and where applicable, the authority of the Chief Justice of the Court or of a Division.

2. Institute disciplinary proceedings for any infractions made by court clerks in the exercise of their duties, and imposing a warning sanction.

3. Propose discretionary appointments of court clerks to the Ministry of Justice within the territory of their jurisdiction which have taken part in the corresponding selection proceedings, and remove them when appropriate.

4. Statistical control and monitoring.

5. Management and organization of court clerks under his supervision, upholding and guaranteeing their independence in the exercise of their judicial attestation faculties.

6. Provide instructions to court clerks within their respective territory at the request of Autonomous Communities which have competencies in this area when their collaboration becomes necessary in order to ensure the efficacy of the functions which such communities have in terms of human and material resources for the administration of justice.

7. Propose to the Ministry of Justice or when applicable to the Autonomous Community with transferred competencies in this area the measures which best suit the administration of justice within their competence informing the Ministry of Justice of any incidents which may have an effect on the court clerks who report to him.

8. Issue orders and guidelines on operational issues to the court clerks of his territory which may not in any event encroach on the development of procedural activity by magistrates and judges or contradict the decisions adopted by the Board of Governance within the field of its competencies.

They may not issue particular instructions referred to specific matters in which a court clerk must act giving judicial attestation or in the exercise of supervision and coordination of proceedings

9. Grant leave and time-off to the court clerks within the territory.

10. All others foreseen in the Framework Regulations for Court Clerks.

Article 466.

1. Each province will have a Co-ordinator Clerk appointed by the Ministry of Justice on a discretionary basis following a proposal by the Governance Secretary in agreement with the Autonomous Community which have competencies in this area among all clerks who take part in the public selection process.

Additionally, in the Autonomous Community of the Balearic Islands there will be a Co-ordinator Clerk for the islands of Menorca and Ibiza and in the Autonomous Community of the Canary Islands there will be another one for the islands of Lanzarote and La Palma.

In Autonomous Communities consisting in one province, the functions of Co-ordinator Secretary will be undertaken by the Governance Secretary except in those in which the requirements of the position make it advisable to provide for a specific appointment.

2.

Article 467.

Under the direct supervision of the Governance Secretary, the Coordinator Clerk will have the following competencies:

1. Issue instructions on operational matters to court clerks within their territory to ensure an adequate functioning of the services entrusted to them.
2. Monitor adequate implementation of operational orders and guidelines given by the Governance Secretary to whom he reports.
3. Inform immediately the Governance Secretary of any circumstances which may be relevant to the adequate administration of justice and of any requirements in terms of human and material resources of the court clerks located in his territory.
4. Collaborate with the Autonomous Communities which have competencies in this area to ensure that the functions they have in terms of human and material resources are effective.
5. Coordinate function of any common procedural services located in his territory, or when applicable, assume directly its direction when there is a common procedural service.
6. Propose secondment for court clerks to the Ministry of Justice within their territory as may be necessary for an adequate operation of clerkship offices.
7. Provide for any replacements of court clerks within his territory evaluating where appropriate the requirements that must be complied by the deputy clerk for the position he is to cover.
8. Any other duties established by the laws and by his own statutory regulations.

CHAPTER IV Disciplinary liability

Article 468.

1. Court clerks are subject to disciplinary liability in the terms and pursuant to the principles established in Volume VI of this Public General Act for the officers at the service of the Justice Administration bodies and will be subject to the same sanctions.

2. For major or very serious infractions, sanctions may only be imposed by virtue of disciplinary proceedings instituted to this purpose by means of the procedure established by the General Regulations on Disciplinary System for officers at the service of the Justice Administration.

For minor infractions, sanctions may be imposed without having to open proceedings except for the hearing with the offender.

Supervisors who were aware of the infractions and consented, abetted or concealed them will also be disciplinary liable as their material authors in the case of major or very serious infractions when their actions have caused severe damage to the Administration or to citizens.

3. Autonomous Communities with competencies in the area of justice may foster disciplinary liability of court clerks who have been appointed to judicial bodies located in their territory before the competent authorities for the opening and handling of disciplinary proceedings, informing them of any decisions adopted.

4. The disciplinary proceedings established by virtue of this Public General Act must ensure that the court clerk subject to those proceedings will benefit from the rights set out in Article 35 of Act 30/1992, November 26th, - Legal Framework of Public Administrations and Common Administrative Procedure (Ley del Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común) and from these rights as well:

- a) Presumption of innocence
- b) To be notified to the designation of an investigator and a secretary and to file a motion for their recusation.
- c) To be notified of the alleged facts, the nature of the infraction and the sanctions which may be imposed, if any, and of the sanctioning resolution.
- d) To file pleadings.

- e) To submit any evidence in order to clarify the events.
 - f) To act in the proceedings assisted by legal counsel or trade union representatives.
5. When the preliminary investigation in the course of disciplinary proceedings reveals that a criminal offence may have been perpetrated, proceedings will be suspended and it will be reported to the Public Prosecutor.
6. The opening of criminal proceedings will not prevent disciplinary proceedings from being conducted for the same findings but no resolution will be passed until a final sentence or a non-suit order has been entered in the criminal trial.
- In any event, the facts as found of the decision which completes the criminal proceedings will be binding for the resolution given in the course of the disciplinary proceedings notwithstanding the different legal considerations which may be applicable in each procedure.
- A person may only be subject to criminal and disciplinary sanction when the legal considerations and the protected public interest differs.

Article 469.

1. Disciplinary proceedings addressed against officers belonging to the Judicial Clerkship may be initiated by the Ministry of Justice, by the Governance Secretary and by the Provincial Coordinator Clerks. The proceedings will be conducted by the Ministry of Justice.
2. Infractions are classified in very serious, major and minor offences pursuant to the list included in article 536 hereunder.
3. Sanctions may be imposed by:
 - a) The Governance Secretary and the Provincial Coordinator Clerk for warning sanctions.
 - b) the Ministry of Justice in the case of suspension, mandatory transfer and removal from office.

VOLUME VI Civil Servants attached to the Administration of Justice and other personnel

PART I Common Provisions

CHAPTER I Personnel of the Coroner Department, Medical practitioners of the National Toxicology and Forensic Science, of Procedural and Administrative Management, Technical Experts of the National Toxicology and Forensic Science, of Procedural and Administrative Management, Procedural Assistance, Laboratory Assistants and other personnel at the service of the Administration of Justice.

Article 470.

1. This Volume provides the legal framework pursuant to Article 122 of the Spanish Constitution applicable to the civil servants who work for the Coroner Department, Medical practitioners of the National Toxicology and Forensic Science, of Procedural and Administrative Management, Technical Experts of the National Toxicology and Forensic Science, of Procedural and Administrative Management, Procedural Assistance, Laboratory Assistants and other personnel at the service of the Administration of Justice.
2. The foregoing bodies of civil servants at the service of the administration of justice will be considered National bodies.

Article 471.

1. Competencies referred to all personnel at the service of the administration of justice mentioned in the preceding article are vested in the terms established in this Act to the Ministry of Justice, or where applicable to the Autonomous Communities with competencies in this area, in all matters.

Article 472.

1. Public officers of any of the aforementioned bodies are linked to the Public Administration by virtue of a legal appointment on the basis of a permanent statutory relationship for the performance of remunerated services.

2. In the event of urgency or need, interim officers may be appointed who will perform the functions vested in those bodies insofar as it is not possible to perform them by civil servants or the reasons for their appointment continue to exist.

Article 473.

1. Public officers from other administrations may perform services at the administration of justice either on a permanent or provisional basis when it becomes necessary to provide assistance for the development of specific activities which are not the ones vested in the bodies of civil servants described in this Volume and which require technical or specialised knowledge.

Article 474.

1. Career public officers of any of the bodies at the service of the administration of justice will be governed by the provisions included in this Act and by subsequent enabling regulations, in default, insofar as there are no express provisions applicable, by the State Regulations on Public Service.

2. Interim officers will be subject to the career officers scheme insofar as it is fitting in view of their situation but the retirement benefits of career officials will not apply to them.

3. Civil servants from other Administrations who perform services for the administration of justice in order to perform specific and concrete functions, will be governed by the Public Administration regulations applicable to the post from which they originate for those situations.

4. Employees of the Public Administration will be governed by legal provisions and regulations, by the collective wage agreement applicable to them and by the terms of their employment contract.

Article 475.

The public officers mentioned in the preceding Article will be classified in:

a) General Bodies when their tasks are essentially of procedural nature notwithstanding the performance of administrative functions linked to such procedural activities.

General Bodies:

The Procedural Management and Administrative Body. The degree required for access to his Body is a three-year degree certificate, technical engineering certificate, Quantity surveyor certificate or a similar one.

The Procedural and Administrative Assistance Body. Access to this Body requires having leaving certificate or a similar high school qualification.

The Procedural Assistance Body. Access to this body requires to have passed the mandatory school courses or a similar accreditation.

b) Special bodies when the duties to be performed at these bodies require basically to have a degree or practise a profession.

Special bodies:

Coroners Body. In order to access the Coroners' Body it is necessary to have a Degree in Medicine. Medical Practitioners of the National Toxicology and Forensic Science Agency. In order to access this body it is necessary to have a university degree in Health or Science, which will be specified in the notice for vacancies to this body depending on the specialisation required.

Technical Experts of the National Toxicology and Forensic Science Agency. In order to access this Body it is necessary to have a higher degree from a technical school or a similar qualification included in the professional groups established in the public notice for these positions in view of the nature of the post which is being offered.

The Laboratory Assistants of the National Toxicology and Forensic Science Agency Body. Access to this body requires having a Technology Degree or similar qualification

Article 476.

The Procedural Management and Administrative Body collaborates in the highest procedural activity and performs its own procedural duties.

Generally, and under the hierarchy principle, notwithstanding any specific duties attached to a given job description, it will:

a) Handle proceedings co-ordination informing the Court Clerk of this in particular when certain matters require an interpretation of the Law or of procedural regulations notwithstanding information given to the incumbent judge when he requests it.

b) Carry out and sign any appearances made by the parties in the course of proceedings carried at the judicial body, with certification capacity.

c) Place on record any attachments, evictions and other acts which require attestation with the particulars and in the capacity established by law, unless the court clerk considers that he should become involved in some aspect.

d) Issue notes for the purpose of attaching data or items to the proceedings as part of the evidence submitted in order to ensure their recording and subsequent handling informing the supervising authority of this; note taking which may be for reference, for summary of trials and pre-trial proceedings.

e) Conduct filing activities, receive and distribute documents and papers on matters which are being handled by the Courts and Tribunals.

f) Issue, having informed the Court Clerk of this, and at the cost of the applicant, non-certified copies of documents and papers of the proceedings which are not classified or restricted.

g) Occupy, pursuant to the Job Descriptions Roster, the managing positions which the direct support units and the common procedural services are divided, notwithstanding any functions attached to a specific position, for the allocation of personnel duties, being responsible for their fulfilment.

h) Collaborate with competent bodies in administrative management, performing functions referred to human and material resources management at the unit of the Judicial Office in which they perform their duties provided that such functions are specifically foreseen in the Job Descriptions Roster for that position.

i) Act as the Judicial Clerkship for the Associations of Justices of Peace Clerkships, of Justices of Peace districts with more than 7,000 inhabitants and Justices of Peace of less than 7.000 inhabitants when the workload justifies their creation, and other positions of the aforementioned destination centres ascribed to the Procedural and Administrative Management Body, also hold positions in administrative units when the Job Descriptions Roll for such units contemplate it and provided further that they meet the necessary requirements in terms of knowledge and training in order to perform these duties.

j) They may be appointed as deputy clerks provided that they hold the necessary qualifications and other requirements pursuant to the procedure established by the corresponding regulations, being

entitled to the remuneration established in article 447(5) for deputy clerks who are not professionals.

k) Perform all functions established by law or by the regulations and whatever duties of similar nature may be entrusted to them by their senior organizational or functional officers in the exercise of their competencies.

Article 477.

The Procedural and Administrative Handling Body will undertake all activities which provide support to procedural management in view of the specialisation level of the position under the hierarchical principle and pursuant to the provisions of the Job Descriptions Roll.

Notwithstanding the specific functions of their position they will also carry out:

a) General handling of proceedings by means of mechanical or information technology office packages preparing all documents, certificates, entries, notices and other forms which may be required, as well as copies of documents and attach them to the files.

b) Filing and classification of correspondence.

c) Prepare the documentary support of proceedings and files under the supervision of a higher officer.

d) Draft the notice forms in order to perform any communications required.

e) Occupy, pursuant to the Job Descriptions Roster for the judicial office, the managing positions assigned to this body in the manner and subject to the conditions which will be determined.

f) The possibility of occupying positions in administrative units provided that they hold the necessary qualifications to perform them according to their respective job descriptions.

g) Perform all functions established by law or by the regulations and whatever duties of similar nature may be entrusted to them by their senior organizational or functional officers in the exercise of their competencies.

Article 478.

The Judicial Assistance Body is generally vested with any and all assistance duties to the activities carried out by judicial bodies subject to the principle of hierarchy and according to the provisions established in their respective job descriptions:

a) Make communications such as notices, summons and requests in the manner established in procedural laws and to that end they will have certifying capacity and the necessary credentials.

b) As a delegated authority it may carry out enforcements, evictions and other acts which nature require it in the capacity and representation vested in this body by law.

c) It may act as the Judicial Police as an agent of the authority notwithstanding the functions vested in the Security Forces and Bodies in the investigation of crimes and in searching and arresting the offenders.

d) Perform duties of filing court records and proceedings under the supervision of the court clerk.

e) Ensure that the courtroom are properly used and that order is kept.

f) Verify that the technical resources needed for the judicial procedure are in adequate order ensuring when applicable that technicians are available to ensure that those devices are operating regularly, informing the court clerk of any incidents detected in them which may hinder any hearings.

g) Occupy, pursuant to the Job Descriptions Roster for the judicial office, the managing positions assigned to this body in the manner and subject to the conditions which will be determined.

h) The possibility of occupying positions in administrative units provided that they hold the necessary qualifications to perform them according to their respective job descriptions.

i) Perform all functions established by law or by the regulations and whatever duties of similar nature may be entrusted to them by their senior organizational or functional officers in the exercise of their competencies.

Article 479.

1. Coroners are civil servants which are part of a National Body of Professionals at the service of the administration of justice.

2. The functions of the coroners are to provide technical assistance in courts, tribunals, prosecution, and officers of the Register of Vital Statistics in matters of their professional competence, in the field of pathology anatomy and autopsy procedures, assistance or medical supervision of arrested individuals, the injured or sick offenders which are under their jurisdiction in the manner established by law.

To these purposes, they will draft medical reports and notes to be used in the course of judicial proceedings and will conduct a regular monitoring of the injured offenders' situation and evaluate bodily damage as required in any court procedure. They may also perform investigation and collaboration functions arising from their position. In the course of procedural or investigation activities of any nature initiated at the request of the Prosecutor, they will follow the orders of magistrates and judges and supervisors and officers in charge of the Register of Vital Statistics, exercising their functions with full independence and under strictly scientific standards.

3. Coroners will hold office in a Forensic Institute or at the National Institute of Toxicology and Scientific Science. Exceptionally when required by the workload they may be ascribed to courts, prosecutors' offices or Registers of Vital Statistics.

4. In each capital of a province in which a High Court of Justice has its seat there will be a Forensic Institute as well as in those in which the Divisions of the High Courts of Justice have jurisdiction over one or more provinces.

Notwithstanding, the government following a proposal of the Ministry of Justice, following a request of an Autonomous Community competent in the matter may authorise that such seat should be the administrative capital of that Autonomous Community when it does not coincide with the seat of the High Court of Justice.

Likewise, the Government may authorise the creation of Forensic Institutes in other cities within the territory of the High Court of Justice in question with the scope of competencies which will be determined.

By means of a Royal Decree by virtue a proposal of the Ministry of Justice and following a report by the Council General of the Judiciary and of the Autonomous Communities which have been assigned resources of the functioning of the administration of justice, the general rules for the organization and operation of Forensic Institutes will be established and of coroners; the Ministry of Justice or the competent body within the Autonomous Community may issue within the scope of their respective competencies the relevant provisions for their further development and implementation.

Article 480.

1. The National Institute of Toxicology and Forensic Science is a technical body ascribed to the Ministry of Justice with the mission of providing assistance in the administration of justice and contribute to unify scientific standards, ensure quality of analytic expertises and contribute to the development of forensic science. Its organization and supervision is vested with the Ministry of Justice. This Institute is located in Madrid and its field of action extends to all the territory of Spain. Its organization chart will be established by means of a Royal Decree.

At this institute, officers of Special Bodies described in the next paragraphs of this Article will render their services. Other civil servants from different bodies within the Administration of Justice and other public administrations may also work there in the terms and subject to the requirements established in their corresponding job descriptions, as well as any professionals or experts required

for the performance of certain tasks and other staff involved in workshop or instrumental tasks who will be hired on an employment basis.

2. The medical practitioners of the National Institute of Toxicology and Forensic Science and career officers which are part of the National Body of Professionals at the service of the Administration of Justice.

Depending on the technical and scientific activities of the Institute, specialisations may be created within that body. The functions of the Medical Practitioners ascribed to the aforementioned body of the National Institute of Toxicology and Forensic Science is to provide technical assistance in their professional capacity to the judicial and administrative authorities, to the Public Prosecutor and to coroners in the course of judicial proceedings or in the preliminary inquiries. To that purpose they will carry out any analysis and investigation requested from them, they will issue the relevant reports and expert testimonies and handle any queries made by the aforementioned authorities or by private individuals in the course of judicial proceedings and also by public agencies or companies in matters of general interest contributing to the prevention of mass intoxication.

They will discharge their duties at the National Institute of Toxicology and Forensic Science and at the Forensic Institutes subject to the terms and conditions which may be established in the corresponding job descriptions.

3. The Technical Laboratory Experts of the National Institute of Toxicology and Forensic Science provide specialised technical assistance in scientific and research activities included in the scope of the National Institute of Toxicology and Forensic Science. They will discharge their duties at the National Institute of Toxicology and Forensic Science and at the Forensic Institutes subject to the terms and conditions which may be established in the corresponding job descriptions.

4. Laboratory assistants of the National Institute of Toxicology and Forensic Science are career officers which are part of a National Body at the service of the administration of justice who provide support in line with their qualifications in scientific and research activities of the National Institute of Toxicology and Forensic Science and at Forensic Institutes subject to the terms and conditions which may be established in the corresponding job descriptions.

5. Officers of the Special Bodies of the National Institute of Toxicology and Forensic Science report to the Director of the National Institute of Toxicology and Forensic Science or where applicable, to the Director of the Forensic Institute where they render their services.

CHAPTER II Civil Servants Register

Article 481.

1. The Ministry of Justice will keep a Central Register of all civil servants working for the administration of justice in which all public officers belonging to any body at the service of the administration of justice will be recorded and in which it is obligatory to place on record all matters which refer to their administrative status.

2. The Autonomous Communities may establish within their respective territories, personnel registers for the civil servants working at the service of the administration of justice who work thereat.

3. The Ministry of Justice will pass regulations governing the information that must be included in the Register of Prior Convictions and the measures adopted to ensure that all data is treated in a confidential manner in the terms established in the current legislation. In order to update data at the register, the Ministry of Justice will cooperate with the Autonomous Communities which have competencies in this field establishing the required collaboration instruments to ensure immediate entry of all data referred to all civil servants regarding of where they effectively render their services.

4. All civil servants will have access to their personal file which under no account will include any reference to their race, religion or opinion or any other personal or social circumstance which is not relevant for their work.

PART II Public employment offer, access and professional promotion

CHAPTER I Public employment offer

Article 482.

1. Human resources requirements which have a specific budgetary chapter will be included in a single annual public employment offer which will be prepared according to the prevailing criteria for the state public sector in the terms of the National Budget Act.
2. Autonomous Communities within the scope of their territory may also determine their human resources requirements for the administration of justice when they have assumed competencies in this matter and will inform the Ministry of Justice of this.
3. The Ministry of Justice will prepare the public employment offer including a differentiated provision for the human resources requirements of the Autonomous Communities and those existing in the rest of the State territory which have not been devolved and will submit it to the Ministry of Public Administrations which will then refer it to the Government for approval.
4. When the public employment offer has been approved, the Ministry of Justice will convene the selection proceedings.
5. In public employment offers, a quota not under five per cent of vacancies will be covered by individuals with a disability degree equal or above 33 per cent, provided that they pass the selective tests and establish the extent of their disability and their compatibility to perform the duties and tasks entrusted to them in the manner established by the corresponding regulations.

CHAPTER II Selection of civil servants at the service of the administration of justice

Article 483.

1. Pursuant to the principles included in article 103 of the Spanish Constitution, public career officers will be selected by means of objective criteria and subject to the principles of equal opportunities, merits, capacity and publicity.
2. The contents of the papers and the examinations carried out will be same for each body throughout the national territory, except for the tests which may be established to determine the candidate's knowledge of the language and civil special or regional law of those Autonomous Communities which hold competencies in the field of justice; such tests being optional and under no event will disqualify the candidate, the marks obtained according to the grading scale will be considered for the sole purposes of appointment within that Autonomous Community.
3. Selective tests will be convened and decided on by the Ministry of Justice; these tests will be carried out on a territorial basis in the different areas where vacancies exist. The applicable terms of the public examination and the requirements which will be the same for each body will comply with the terms of this Act and with the Royal Decree which enacts the General Regulations on Access, Provision of Office and Professional Promotion of civil servants at the service of the Administration of Justice and will be published in the Official State Gazette and in the Official Gazettes of the Autonomous Communities simultaneously. If simultaneous publication is not possible, the term and

deadlines of the public examination notice will be reckoned in any event from the date of their publication in the Official State Gazette.

4. The public examination provisions will be prepared by the Staff Selection Committee and then approved by the Ministry of Justice following a negotiation with the most representative trade unions. These provisions will be binding for the Public Administration and the panels which are to evaluate the selective tests and may only be amended in strict compliance with the Legal Framework of Public Administrations and Common Administrative Procedure Act.

5. Notice of public examinations will determine the number of vacancies and the territory for which they are being offered. Vacancies covered in an Autonomous Community which have competencies in the field of justice will be offered for the territory of that Autonomous Community except if the latter expressly waives such notice and in that case they will be grouped with the other vacancies.

Likewise, when the number of vacancies or in view of facilitating the outcome of selective tests it is advisable to group the vacancies for one or more territories, it will be possible to do so.

Candidates may only request their participation for one of the territories which are mentioned in the notice and if they pass the tests they will have to be appointed to one of the vacancies for that territory.

Under no event the selection proceedings will be deemed completed in each territory when the number of successful candidates exceeds the available vacancies included in the public offer for the civil service, and any proposal which breaches this provision is null and void.

6. In selective tests, individuals with disabilities will be admitted in the same conditions as the other candidates. Public examinations notices will not include exclusions due to physical or psychological disabilities notwithstanding incompatibility arising from the nature of the tasks or functions to be performed. If the disabled candidate requests it, insofar as possible, adjustments in term and resources will be made for the performance of the public examinations.

Article 484.

Access to the different public bodies is free and available to all citizens by means of a public examination or a combined merits contest and examination.

1. Selection by means of a public examination is the normal access procedure and consists in carrying out tests established in the notice to determine the capacity and knowledge of the candidate.

2. Selection by merits contest and examination involves carrying out certain tests in order to evaluate certain training requirements, merits or degree of experience in the manner established in the notice.

The use of the merits cum examination system is considered exceptional.

Article 485.

1. Selection proceedings will include a theoretical and practical course or a training period which will have a selective nature.

The grade obtained will determine the rank of the candidate; however if it is not a selective course, candidates who do not pass it will lose their right to be appointed career officers.

2. During the course, candidates are considered as trainee officers with the rights and obligations established in the regulations.

3. The selective course or the training period as the case may be, may be conducted in centres, institutes, or training centres attached to the Autonomous Communities or at the Judicial Offices located in their territory.

Article 486.

1. The contents of the exam and the notice of the public examination provisions which govern the system of access to the civil service bodies mentioned in this Volume, will be entrusted to a Personnel Selection Committee made up of:

Four members representing the Ministry of Justice, one of whom will be the Chairman and will have the casting vote in the event of a draw in passing resolutions.

Four representatives of Autonomous Communities which have competencies in the administration of justice, one of whom will act as the Vice chairman.

2. This Committee will determine also the training programme for the training period or the selective course, as the case may be.

3. The rules governing the functioning of the Selection Committee and the system to appoint its members will be established by the Royal Decree which enacts the General Regulations on Access, Provision of Office and Professional Promotion of civil servants at the service of the Administration of Justice. The members of this Committee in the event of selection of candidates for bodies which management has not been devolved, will also be established in those Regulations.

4. The contents of each exam paper will be approved by the Selection Committee and will be the same for all the territory of Spain.

Article 487.

1. The development and grading of selective tests is vested in the examining panels which will be created to this purpose in each of the territories in which vacancies exist.

These panels will act in an independent manner from a functional point of view and will be liable for fairness in the examining proceedings and for compliance with the regulations included in the notice of the exam.

2. The General Regulations on Access, Provision of Office and Professional Promotion will establish the members who are to be part in these panels, their number will always be uneven, their rules of proceedings, ensuring that its officers have the required specialisation and that the selective process is conducted in an agile manner subject to objective criteria and determining the disqualifying circumstances, rights and duties of its members.

Panel members are appointed by the Ministry of Justice. In panels created in the territory of Autonomous Communities with competencies in this area, two out of every five members will be proposed by the competent body within that Community.

Article 488.

1. Once the selection process is over, successful candidates who may not exceed the number of existing vacancies in each area and within the term provided to establish the qualifications required in the notice of the public examination, will be appointed career officers.

2. These appointments will be published simultaneously in the Official State Gazette and in the Gazettes or Bulletins of the Autonomous Communities which have competencies in this area.

3. Allocation of positions to new civil servants will be made according to their requests among the positions offered depending on the grade achieved by them in the selection process.

Appointments allocated to them will be considered final in the same terms as the ones obtained in a merits contest.

The positions offered to new civil servants must have been previously offered to existing officers in contests for transfer of positions. Notwithstanding, if the competent administrations in human resources management do not have within their respective territories enough vacancies to offer to the newly appointed officers, exceptionally and following a negotiation with the trade unions, they may incorporate them to positions which have not been offered for transfer of existing officers.

In this case, the position offered to the new officer will be provisional. This officer must then take part in any transfer proceedings and a final appointment is hereby guaranteed in the area related to the public exam he passed. If the aforementioned obligation is breached, any of the positions which have not been awarded in all the national territory will be given to him on a final basis.

4. In order to become a career officer it is necessary to take possession of new office within the terms established in the regulations.

Article 489.

1. The Ministry of Justice or where applicable the competent bodies of the Autonomous Communities which have received a transfer of human resources for the administration of justice may appoint interim civil servants due to workload requirements when it is not possible in view of the pressing circumstances to appoint a career officer; in this case such appointment will comply with the objective criteria established in the Ministerial Order or where applicable in the regulations issued by the Autonomous Community which has received the transfer of human resources for the administration of justice.

2. The appointed officers must meet the requirements and hold the qualifications needed for access to that body; they will take possession of office within the term established in the regulations and they will have the same rights and obligations as the other officers, except for tenure of office, and they are entitled to the same remuneration and supplementary benefits, except three-year seniority pay.

3. They will be removed from office in the terms established in the Ministerial Order, or where applicable, by the regulations established by the Autonomous Community and in any event when the vacancy has been covered, when the incumbent officer returns or when the urgent needs have disappeared.

CHAPTER III Internal Promotion

Article 490.

1. Internal promotion is guaranteed by being raised in rank from a body which required a certain degree for its access to another body which requires the next highest qualification, or in the case of Special Bodies, by being able to access different specialised units within the same body.

2. Fifty per cent of the vacancies included for each body in the public employment offer will be allocated for internal promotion. Vacancies which are not covered by internal promotion will then be included in the open system.

3. Internal promotion is carried out by the examination and merits system in the terms established by the Royal Decree which enacts the regulations for access to that body, provision of office and professional promotion. In all cases the principles of equal opportunities, merit, capacity and publicity will be observed.

4. Internal promotion to access a different area of specialisation in the same body will take place between officers who perform identical or similar functions in terms of professional content and technical level.

5. In any case, officers must have the academic qualifications required to access the bodies or specialised units in question, establish a length of service of two years in the body to which they belong and meet the requirements and pass the selective tests established. These tests may be carried out in an independent exam from the general examination process. To the purposes of considering length of service, the one which they have established in the Body of Agents or Assistants of the Administration of Justice from which they originate, if applicable, shall be considered in view of the body for which they request promotion. Officers which access by means of internal promotion will have preference over vacancies offered with regard to other candidates

who are not being promoted by this system. Notices of these promotions may establish that the selective tests in order to establish the knowledge of candidates for their originating position may be waived, and in that case specific courses or training programmes passed will be evaluated.

PART III Appointment and removal of civil servants

Article 491.

1. The condition of civil servant is acquired by subsequent compliance with the requirements established in Volume V of this Public General Act on the Judicial Clerkship Body.
2. Career officers will lose that condition in the same cases as the ones established in Volume V for the Judicial Clerkship Body.

Article 492.

1. Retirement of offices may be:
 - a) Voluntary at the request of the officer.
 - b) Mandatory, when he attains the legal age for retirement.
 - c) If he becomes permanently incapacitated for his duties.
2. Voluntary retirement takes place at the request of the applicant, provided that the officer meets the requirements and conditions established in the social security scheme which applies to him.
3. Mandatory retirement will be declared ex officio when the officer attains sixty-five years of age. Notwithstanding, civil servants may extend on a voluntary basis their period of service up to seventy years of age maximum following the legal or regulatory proceedings established.
4. Retirement of an officer will also take place when he is under any incapacitating circumstance to perform the duties required for his position. An incapacitating proceeding must be instituted either ex officio or at the request of the applicant.

Article 493.

By means of the procedure established in the corresponding regulations officers may be reinstated: Officers who have lost such condition following loss of Spanish nationality or due to an incapacity for office once the objective cause for it disappears.

Officers who have lost their condition due to final or temporary disqualification decreed as the main or accessory conviction leading to imprisonment due to having perpetrated a crime, may be reinstated once they have extinguished their civil or criminal liability and their conviction record has been cancelled.

Officers who have been removed from office due to a disciplinary sanction may also be reinstated.

Article 494.

The Minister of Justice will be competent to appoint career officers. Likewise he is competent to resolve on the removal of a career officer and where applicable to reinstate him in the terms established in this Public General Act and subject to the procedure and conditions established in the corresponding regulations in view of the circumstances and the nature of the crime or of the infraction.

Voluntary, mandatory and permanent disability retirement as well as extension of the length of active duty must be subject to a resolution given by the competent body of the Ministry of Justice in all cases.

PART IV Rights, duties, disqualifying circumstances

CHAPTER I Rights, duties and disqualifying circumstances

Article 495.

1. Career officers are entitled to the following professional rights:

- a) To retain their condition of public officers and perform the duties and tasks of their body without being removed from office except in the cases and subject to the terms established by law.
- b) To collect the remuneration and compensation for services rendered according to the current legal provisions.
- c) To their professional advancement by means of all professional promotion mechanisms which have been established in terms of equal opportunities, merit, capacity and publicity.
- d) To receive from the Public Administration the initial, necessary and on-going training in order to allow for a better and quicker adjustment to their positions leading to their professional promotion.
- e) To be informed by their higher officers or supervisors of any the tasks and duties to be performed by them and participate in attaining the objectives of the unit in which they discharge their duties.
- f) Respect of their privacy and due consideration in terms of dignity which includes protection against any verbal abuse or sexual harassment.
- g) To vacancies, leave and time-off.
- h) To receive protection in terms of health and safety at work whereby the competent administrations will adopt the necessary measures to ensure that the current legal provisions on risk prevention and health at work is effectively complied with, evaluating the initial risks and establishing emergency plans, creating risk prevention units and a Central Committee of Health and Safety at work.
- i) To retirement.
- j) To a social security scheme which for career officers and for interim officers will include the following protection mechanisms:
One: The Retired Officers Group of the State which will be governed by its specific rules.
Two: The Judicial Mutual Fund regulated by Order in Council 3/2000, June 23rd and other enabling provisions.

2. The legal rights system foreseen in the previous paragraph will be applicable to interim officers insofar as the nature of the right allows for it and they will be included to Social Security purposes in the General System of the Social Security.

Article 496.

Public officers have the following collective rights in the terms established in the Constitution and in the laws:

- a) Free professional association.
- b) Freedom to chose a trade union.
- c) Trade union activities.
- d) The right to go on strike in the terms established in the general State legislation for public officers guaranteeing maintenance of essential services for the administration of justice.
- e) Collective negotiation, participation in establishing their employment conditions by creating appropriate frameworks for a wider and more intense participation of civil servants' representatives at the service of the administration of justice by means of work groups, roundtables and other systems of dialogue and negotiation.
- f) Meeting rights.

Article 497.

Officers working for the administration of justice are obliged to:

- a) Observe the Constitution and the rest of the legal system.
- b) Exercise their functions, tasks and duties with loyalty and impartiality serving general public interest in an objective manner.
- c) Comply in a diligent manner with professional instructions received from their supervisor within the sphere of their competencies.
- d) Perform with due care the functions and tasks arising from their position and those which related to the above are entrusted to them by their senior officers or supervisors in order to comply with the objectives of the unit.
- e) Follow the timetable and work system.
- f) Maintain in confidence the matters which they are familiar with by virtue of their appointment or functions and refrain from any unauthorised use of the information obtained and ensure that classified matters or other issues which may not be disseminated are kept secret.
- g) Inform the competent authorities of any orders which they consider that breach the law or may be subject to criminal liability.
- h) Ensure that they are not under disqualifying or prohibited circumstances.
- i) Treat citizenship with respect and care.
- j) Inform the parties of their identity and category when so requested, except when this is not possible for security reasons.
- k) Provide for maintenance and correct use of the premises, material, documents and information under their custody, refraining from using the property of the public administration to their own benefit or perform their duties in a manner which may entail an illegal benefit to them or to other persons.
- l) Treat their higher officers, colleagues and subordinates with respect and due consideration.

Article 498.

1. Officers are subject to the disqualification system established in the general legislation for civil servants working at the service of public administrations.

2. The exercise of any activity which requires a compatibility declaration must be previously authorised by the Ministry of Justice or by the Autonomous Community which has competencies in this field. Compatibility for the exercise of a private activity will not be authorised when the position requires special dedication. This authorization will not be granted to coroners or medical practitioners who hold office as Director or Subdirector at Forensic Institutes or at the National Institute of Toxicology and Forensic Sciences and its departments.

3. In any event, his duties will not be compatible with:

a) In the case of Special Bodies

- 1) Their intervention as private individuals in cases which may be related to their functions.
- 2) To act as a company doctor, or as a medical practitioner at the service of insurance companies or hold any employment in these entities.
- 3) Any private activity requiring his expertise.
- 4) To issue death certificates unless they work at the Register of Vital Statistics and then only in the exercise of their duties.

b) With regard to General Bodies:

- 1) To practise law, or act as court representatives, or at the service of legal counsellors or barristers or practise any profession whereby they may appear before Courts and Tribunals.
- 2) To act as insurance agents, or their employees or as an employee of an insurance company.
- 3) To hold positions as managers, directors or consultants in trading companies.

- 4) Perform administrative management duties, either as an administrator or as an employee in such offices.
- 5) Exercise of expertise functions before Courts and Tribunals.

Article 499.

1. Abstention by a public officer will be reported in writing to the competent authority which must pass a decision that puts an end to the proceedings or the suit. If the abstention is upheld, the officer will be replaced in the proceedings by the person who must legally act as his deputy. If it is dismissed, then he must continue performing his duties in the proceedings.
2. Recusation of a public officer is only possible if any of the legal reasons for this exists and subject to the procedure for recusation of court clerks with the following exceptions:
 - a) The administrative appeal will be instituted by the court clerk who is the supervisor of the officer in question and the matter will be solved by the officer who is competent to issue a decision which ends the proceedings or the suit in that instance.
 - b) If, in view of the recusation motion, the court clerk considers that the grounds invoked are not contemplated in the law, he will dismiss the motion when it is filed indicating the reasons for the dismissal. Such decision is not subject to any further appeal.
 - c) If the recusation motion is upheld, on the day after its reception, the challenged officer will inform the court clerk if the grounds for recusation exist or not. When the grounds for recusation concur, the court clerk will agree to replace that officer by the party which must replace him by law. This resolution may not be further appealed.
 - d) If the challenged officer denies the grounds invoked for recusation, the court clerk after having heard the allegations of that officer within five days after having conducted the verifications requested by the latter which are relevant to the motion or any other ones which he deems appropriate, will submit the file to the officer who is to decide on this incident.
3. Public officers working at the Coroners' Body are subject to the provisions established in procedural rules for recusation of experts.

CHAPTER II Working day and timetable

Article 500.

1. The length of the ordinary working day in annual terms and of those days which are subject to special dedication, and their particular circumstances will be determined by a resolution issued by the competent body of the Ministry of Justice following a report issued by the Autonomous Community with competencies in this area and on the basis of a negotiation with the most representative trade unions. Public officers must exercise their duties in the manner required depending on the nature of their position. To this end, the Ministry of Justice following a report issued by the Autonomous Community with competencies in this area and on the basis of a negotiation with the most representative trade unions, will determine the procedure for offsetting overtime and extended working days due to urgent procedural actions which may not be deferred.
2. The ordinary weekly working hours will be the same to the one established for the General State Administration. Public officers may work shorter hours in the cases and under the conditions established by law and in the regulations.
3. Certain departments or jurisdictional bodies may only work in the mornings or in the morning and afternoon depending on the requirements of the service and in particular if that unit deals directly with the public, in which case the tendency will be to increase the number of hours of attention to citizenship. Incorporation to public officers to the morning duty or to a split working day is voluntary and must be tied to incentive measures.

4. The distribution of the working day and the timetable will be established in the working calendar drawn up on an annual basis by the competent body of the Ministry of Justice and the Autonomous Community with competencies in this area following a report by the Council General of the Judiciary and on the basis of a negotiation with the most representative trade unions.

The working calendar shall be drafted considering the total annual hours of effective work.

Clock-in and clock-out hours may be flexible but in any event a certain number of hours must be worked on a continuous manner.

Any timetable agreed on must take into account the times for citizenship attention.

5. In view of the specialties of certain departments or jurisdictional bodies, special working hours may be established which must be included in the corresponding job descriptions and will be subject to a special allowance payment.

6. In the event that a public servant does not complete his working hours, the remuneration for the defaulted hours will be deducted from his salary according to the applicable regulations on this matter.

To these purposes, effective time worked is considered to be the duties carried out within the allocated timeframe taking into account any credited hours and paid time-off, and hours credited for trade union activities.

Article 501.

1. The Council General of the Judiciary after having heard the Ministry of Justice and the Autonomous Communities with competencies in this area, as well as the Bar Associations of that district will determine which judiciary bodies and other services of the administration of justice will remain on duty, and the timetable and conditions for those duty officers.

2. The Ministry of Justice and the Autonomous Communities within their territories will provide the necessary assistance to the judicial bodies or departments which are on duty. To that purpose, after having negotiated with the most representative trade unions they will determine the number of public officers who are to provide this service, the time they must spend on duty at the judicial body or department, their availability and the distribution and allocation of working hours.

CHAPTER III Holidays, time-off and leave

Article 502.

1. Generally, annual paid holidays will be of one month or 22 working days for each full year of service or the pro rata number of days depending on the time of effective service during the previous year. Public officers working in the Canary Islands may take on a one-off basis the accumulated holidays for two years.

2. It is mandatory to take the holiday period either during the calendar day or until January 15th of the following year in minimum periods of five consecutive working days in view of the work planning of the body in which they render their services, after having consulted the legal representatives of those officers. To these purposes, Saturdays are not working days, except as otherwise provided in the case of special working hours.

3. Moreover, depending on the length of service at the Public Administration, public officers are entitled to an increase in their holidays which will be the same as the one established for the General State Administration.

4. In the event of time-off for childbirth, when it takes place during the holiday period, such period will be interrupted and holidays may be enjoyed when the maternity leave ends, within that calendar year or until January 15th of the following year. Likewise, the holiday period will be interrupted if during the same, the public officer is hospitalised and he may continue to enjoy his holidays when he has been discharged from hospital in the same period established in the preceding paragraph.

5. The Ministry of Justice and the Autonomous Communities in their respective territories where they have competencies will be competent to grant holidays and to that end, following a negotiation with the trade unions they will pass rules which provide for the system to take holidays and their grant.

6. In any event, holidays are granted following a request from the applicant and their enjoyment depends on the workload of their department. If holidays are refused for the period requested, refusal must indicate the grounds for not granting them.

Article 503.

1. On justified grounds, public officers will have the right to equal time-off and for the same extension as the time-off provisions established in the current regulations for officers of the General State Administration, except for time-off for personal matters which will be of nine days, which may not be joined in any case to the paid annual holidays.

2. Enjoyment of time-off will not affect the remuneration entitlement of public officers.

Article 504.

1. Public officers are entitled to fifteen days paid leave in the event of marriage.

2. Paid leave is also granted for training and re-training courses in the following cases:

a) Attendance of courses included in annual training plans organised by the Ministry of Justice, the Autonomous Communities, trade unions and other public or private entities.

The duration and the manner of taking such leave will be determined by the duration and programme of the courses which will be followed and they will not lead to any deduction on the salary items of the attendee.

b) Attendance to courses, congresses or seminars which are related to the functions of the body to which the public officer belongs and contribute to improving his training. Leave will be granted on the basis of the workload of the department and budgetary limitations and its duration depends on the length of the course, congress or seminar.

Leave in the cases entitles the officer to collect the basic pay package and the allowances for children under his care.

3. Officers may enjoy time-off for personal matters without collection any remuneration and its duration may not exceed in any event three months for every two years of service; its grant will depend on the workload of the department.

4. Individuals who have passed the corresponding selective tests and have been appointed trainee officers and are already performing paid duties in the Public Administration of Justice as officers will be entitled to an extraordinary time-off provision for the time they remain in that situation and they will collect the remuneration for trainee officers established in the current legislation.

5. Illness or accident which makes impossible the required performance of duties must be reported in the manner established in the regulations in the day in which the officer is ill and unable to go to work provided further that after the fourth consecutive day of illness, public officers must request from the competent authority sickness leave. The initial leave will be given for the time in which the doctor has considered that the person will require to recover and under no event it will be for more than 15 days. If the sickness has not been cured after that period, the initial leave will be extended automatically for the time determined by the competent authority which granted it and it will no longer have effect if he is cured earlier.

Both the initial leave and all subsequent leave will be granted following presentation of the medical certificate or chit which establishes the nature of the illness and the impossibility of going to work.

Leave arising from the same clinical condition will be limited to twelve months that may be extended further to six additional months when it is considered that in the worker may be discharged by the medical team during the last period. Once the aforementioned term has elapsed,

the leave will be extended up to the period in which the officer is retired from active service due to permanent incapacity or following medical discharge which in any case must take place within 30 months since the initial leave was granted.

To these purposes, it is considered that a new leave has been granted when the clinical condition is different and in any event when between one leave and the other one at least a year has elapsed.

Sickness leave grant the applicant full economic rights for the first six months since he requested the first leave and provided further that they relate to the same medical condition and are on-going or have only been interrupted for no longer than one month.

In any case, the personnel manager may only request from the medical services to revise a file in order to determine if the causes which led to granting sickness leave are still present.

Article 505.

1. The Ministry of Justice and the Autonomous Communities with competencies in this area will be competent to grant leave and time-off in the terms established in this Public General Act regarding officers which provide services in their respective territories in the manner and subject to the procedure which has been established in the regulations passed to that purpose.

2. Likewise they are responsible for monitoring temporary disability of public officers at the service of the administration of justice requesting when they deem it necessary an expert medical opinion and to that purpose they may enter into collaboration systems with public bodies or entities which within their respective areas will undertake inspection, evaluation and monitoring of temporary incapacity under the general scheme of the Social Security and also under special schemes.

PART V Administrative Situations

Article 506.

Career offices belonging to any of the bodies mentioned in this Volume may be under any of the following situations:

- a) Active Service.
- b) Special Services.
- c) Voluntary leave for the care of relatives.
- d) Voluntary leave to render services in the public sector.
- e) Voluntary leave for personal matters.
- f) Voluntary leave for family grouping.
- g) Suspended from office.

Article 507.

1. Career officers belonging to any of the bodies mentioned in this Volume will be in active service when they perform their duties at any of the centres listed in article 521 of this Act.

2. Moreover, the aforementioned officers will also be considered in active service when:

- a) They discharge their duties at the Constitutional Court, the Council General of the Judiciary and the Exchequer Court, except if according to the specific legal provisions of those bodies, they must be subject to a different administrative status.
- b) When they render their services in the Parliament pursuant to the provisions of its Basic Statute and if they are not subject to a different administrative status.
- c) When they become members of any of the legislative assemblies of the Autonomous Communities and they do not collect any regular remuneration for the performance of their duties.

- d) When they are appointed to the Town Hall of any council unless their position is remunerated and requires full dedication.
 - e) When they render services in the Cabinet of the President of the Government, of the State Ministers and of the Secretaries of State and choose to remain in that situation.
 - f) When they are appointed to a position in other public Administrations insofar as the job description includes a specific provision in this respect.
 - g) When they occupy any position in the Judiciary Mutual Fund that must be performed by officers of justice administration.
 - h) When they cease from a position due to having obtained another one by the procedure for provision of office during the term to do so.
 - i) When they render their services in public bodies or entities in the capacity of public officers.
 - j) When so determined by statute.
3. Enjoying time-off or regulated leave will not modify their status of being in active service.
4. Officers in active service will have all rights, entitlements, duties and responsibilities arising from such capacity.

Article 508.

1. Officers belonging to bodies at the service of the State Administration will be declared in the situation of special services in the same cases as the ones applicable to officers working for the Central State Administration unless another status is applicable to them by law.
2. The time spent in special services will be credited to the officers in that situation to the purposes of promotion, three year seniority and retirement benefits except in the case of public officers who are working at the service of European community institutions or assimilated entities or bodies and exercise their right of transfer foreseen in Article 11(2) of Regulation No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants notwithstanding the financial benefits arising from promotion and three year benefits already vested in them prior to their transfer.
3. Officers under this situation will be entitled to a tenured position in the same city under the same terms and remuneration as the ones they enjoyed before moving to their new position provided that they have accessed it from active service or under another status which also grants this right. If during the time in which they remain in the status of special services they take part in selection proceedings their reincorporation will take place in the city and subject to the terms of the appointment they have secured.
4. Officers in the special services situation will collect the remuneration of the office or position they currently hold and not their pay as civil servants notwithstanding their right to collect three-year seniority benefits.
5. Under no event they may provide consultancy services to judiciary bodies while they remain in this situation.

Article 509.

1. Civil servants will be entitled to a childcare leave period not over three years to take care of each child either a biological child, adopted, under foster care or placement, reckoned since the date of birth or the date of the judicial or administrative resolution on these matters. Subsequent children will entail a new leave period which where applicable will put an end to the one currently being enjoyed. When both parents work, only one of them may exercise this right.
- e) Temporary leave may also be granted for a period not exceeding one year to take care of a relative under their care up to the second degree of consanguinity or affinity or which due to age, accident or illness is unable to take care of himself and does not perform any remunerated activity.

Each leave period will be one for each circumstance. When a new event granting such entitlement occurs, the beginning of the period will put an end to the one currently being enjoyed.

Leave period in the aforementioned terms is an individual right of civil servants. In the event that two civil servants are entitled to such leave with regard to the same event, the Administration may limit its simultaneous exercise for reasons related to needs and functioning of services.

The time in this situation will be credited to the public officer in terms of three-year seniority and retirement benefits. During the first year, these officers are entitled to return to the position they held before without having to request their reincorporation and they may also take part in all selection proceedings which may be convened.

Once the aforementioned period has elapsed, a position in the same city and of equal pay will be reserved for them in the same city and they must apply for their reincorporation to active service the month prior to the expiry of the maximum term for this leave as otherwise they will be declared ex officio on voluntary leave for personal matters.

Article 510.

1. Civil servants attached to the bodies mentioned in this Volume will be considered under voluntary leave either ex officio or at the request of the applicant when they request it for personal matters, when they are in active service in another body or rank of the Public Administrations or they subsequently render services in other public sector bodies or entities and they are not under any other administrative status and for family grouping with the same requirements and effects as the ones foreseen in the legislation applicable to public servants at the service of the Central State Administration.

2. Voluntary leave for private matters will also be declared ex officio for public servants when the cause that led to considering them under a different status than active service disappears and they breach the obligation of requesting their readmission within the term established in the regulations.

Article 511.

1. An public servant who has been suspended of duty may not perform any duties for the time of suspension or services in any public administration or public law bodies or entities linked to the former.

2. Suspension of duty may be provisional or final.

3. Provisional suspension may be decreed as an interim measure in the course of judicial or administrative proceedings and will take place in the following cases:

a) When the investigating magistrate in the case of a malicious offence decides to decree his suspension as a cautionary measure. It will be decreed in any event when an imprisonment order has been issued, or bail, or if the officer has been arraigned or committed for trial in the case of abridged proceedings.

b) In the course of disciplinary proceedings by the authority who ordered the opening of the proceedings, and in this case suspension may not exceed six months except if the delay is due to the public servant himself.

c) When the public servant is unable to go to work because a court or a tribunal has issued a restraining order in the course of criminal proceedings whereby he may not live in a certain city or approach certain persons.

4. Suspension will become permanent when a final criminal sentence is given or a final disciplinary sanction.

5. The effects arising from the suspension either temporary or permanent will be the ones foreseen for officials of the Central State Administration who have been declared in that situation.

Article 512.

The Ministry of Justice or the Autonomous Communities with competencies in this area will agree to grant or declare any of the aforementioned administrative situations to officials who render their service within their respective territories by issuing the corresponding provisions concerning the formalities and applicable procedure.

Article 513.

1. Changes in the administrative status of officials must be reported to the Central Register of Staff mentioned in Article 481 hereunder for their record and may take place depending on the specific requirements for each case without having to be reincorporated to active service.
2. In the event that the new situation entails that they may retain their position, officials may take part in selection proceedings for the provision of appointments remaining in the current situation and being entitled to a position of the same rank and pay as the one pertaining to the appointment secured and in the same council.

Article 514.

1. Public servants under administrative situations which allow them to retain their former position will be reincorporated to active duty in the manner and subject to the terms established by the competent authority when it authorised such situation.
2. Reincorporation to public duty from situations which do not allow the official to retain his former position will take place by means of general or special selection procedures or by discretionary appointment.
3. Reincorporation to active service will also take place on a provisional basis by allocating a vacancy when the public servant has the necessary qualifications specified in the job description for that position.

Reincorporation on the basis of a provisional appointment will be subject in any event to the needs of the department and that official is obliged to take part in any selection proceedings convened in order to obtain a final appointment and request among others, the position he is occupying on a temporary basis.

If he does not secure a final appointment, he will be attached to any vacancy of a Judicial Office located in the province or in the territory in which the vacancies have been grouped to the purposes of the selection proceedings. If he does not take part in the first selection proceedings convened after his temporary assignment he will be considered on voluntary leave for private matters.

PART VI Remuneration System

Article 515.

Public servants in any of the bodies at the service of the administration of justice contemplated in this Volume may only be remunerated for the salary items foreseen in this Public General Act.

Article 516.

1. Remuneration falls under two categories: basic and supplementary items.
 - A). The basic remuneration items are the same than the ones established by this Act for the judicial career and for public prosecutors.
 - B). The supplementary remuneration items may be: of a fixed amount payable regularly on their accrual dates or variable.

First/ Supplementary remuneration of fixed amount and satisfied regularly are the following:

- a) General allowance based on the position and which provides a fixed amount depending on each position established for a given body within the administration.
- b) Specific allowance based on the position which remunerates the specific circumstances of a given position in view of its technical difficulty, dedication, responsibility, incompatibility, hardship or hazards.

Second. Variable supplementary remuneration:

- a) Productivity incentive exists in order to remunerate special performance, extraordinary activities, the interest or the initiative of the public officer while performing his duties and his participation in specific action programmes and achievement of objectives set out by the Ministry of Justice and the Autonomous Communities which have competencies in their respective territories, after having heard the Council General of the Judiciary and following a negotiation with the most representative trade unions. Accrual of this incentive in a given period is not a vested right for subsequent periods.
- d) Ex gratia payments in consideration for extraordinary services rendered outside normal working hours which under no account may be of a fixed amount nor satisfied on a regular basis and they do not grant any entitlement in this respect.

Article 517.

1. Notwithstanding the foregoing salary items, officials who perform their duties in judicial bodies or services in which the Council General of the Judiciary having heard the Ministry of Justice and the Autonomous Communities with competencies in this area, considers that require permanent and on-going dedication, will be entitled to collect a duty allowance which amount will be determined by a Ministerial Order following a joint proposal of the Ministers of Justice and the Exchequer, following a negotiation with the trade unions depending on the nature of the duty work.

This item will be the same throughout the Spanish territory and payment is linked to performing duty services. Once the official has established that it has been performed such services he will be entitled to collect payment thereon. Its accrual does not vest individual rights for subsequent periods.

2. Staff mentioned in this Volume will be entitled to the corresponding compensation due to the nature of the service, where applicable.

Article 518.

1. Officers who are in their training period or taking part in selective training courses described in article 485 hereunder will be appointed trainee civil servants and their remuneration will be the one established in this Act for trainee officials who are under a training period to access the Judicial Clerkship Body.

2. When officials who already hold a position take part in training activities, the corresponding amount to the supplementary items will be paid by the Ministry of Justice or the Autonomous Communities which have competencies in this field depending on the territory where the duties are being carried out.

Article 519.

1. The basic remuneration will be the same for all bodies within the administration regardless of where the functions are performed or the position occupied. Such remuneration is determined in the National Budget Act for each year depending on the specialisation degree of the different Bodies at the service of the administration of justice.

Length of service pay increase is set at five per cent of the salary for each three years of service.

When a public servant performs his duties for different bodies, he will be entitled to the three-year length of service pay increase for each of them effectively accrued at the corresponding rates established in each body. If an official moves to a different body before the three-year period has elapsed, the time at the last position will be credited to him in the new position to these purposes.

Civil servants are entitled to two extraordinary payments each year, the amount of each of them is equal to one month salary and length of service benefits and where applicable a pro rata amount of the general allowance attached to the position in the terms established by law for the Administration of Justice, payable in the months of July and December, provided that the recipients are in active service or entitled to collect their salary on the first day of the aforementioned months.

2. To the purposes of the general allowance referred to the position held, a Royal Decree will establish the standard positions for each unit which are included in the judicial offices and for other non-jurisdictional services, providing an assessment for each of them. The amount will be determined in the National State Budget.

3. The individualised amount of the specific allowance will be established by the Ministry of Justice or the competent body of the Autonomous Community following a negotiation with the trade unions in their respective areas of influence, when drafting the job descriptions considering the particular circumstances attached to each position. All positions will have a specific allowance linked to them. Under no account more than one specific allowance may be attached to a position.

4. The Ministry of Justice or the competent body of the Autonomous Community in their respective territories will determine the specific sums of the productivity incentive and which officials are entitled to collect it according to the distribution criteria established for different programmes and objectives. The aforementioned authorities will create participation systems for trade unions to take part in determining the amount and verify the formal procedure of granting these incentives.

5. The Ministry of Justice and the competent body of the Autonomous Communities in their respective territories will undertake the individual assignment of ex-gratia payments and establish the criteria for allocating these payments.

Organization of professional activities

Article 520.

1. Public servants belonging to Bodies contemplated hereunder will perform their duties in the units which are part of the judicial officers and where applicable, at the corresponding administrative units and offices mentioned in Article 439 hereunder; at the Forensic Institutes and the National Institute of Toxicology and its departments.

2. They may also provide services at the Council General of the Judiciary, the Constitutional Court and the Court of the Exchequer subject to the terms and conditions foreseen in the staff regulations for civil servants working in the aforementioned constitutional bodies and in the Judiciary Mutual Fund in those positions according to the job description file for that public body.

3. They may also access other positions in different public administrations insofar the job descriptions roster contemplates this situation. While holding office thereat, the legislation of Public Office in the Administration will apply to the position of their appointment although they are considered in active service at the originating public administration.

Article 521.

1. Staff organization and its incorporation to different units which account for the organization structure of judicial offices will be implemented by the corresponding lists of job descriptions duly approved and made public.

2. The lists of job descriptions include the staffing provision for the different units which are part of the judicial office, including the positions to be held by court clerks, indicating their name, location

and basic characteristics, the specific requirements to qualify for that office and the general and specific allowances attached to it.

3. Lists of job descriptions must include in any event the following specifications:

A) Management Centre. Destination Centre.

To the purposes of organizing the different positions which are to be occupied by civil servants, management bodies are deemed to be the competent bodies of the Ministry of Justice or the competent body of an Autonomous Community for human resources management which will be responsible for drafting the lists of job descriptions for their respective territories.

Destination centre is considered to be:

Each of the common procedural services.

The group of procedural services units which provide direct support to a collegiate judicial body in the same council.

The groups of procedural units which provide direct support to single judge bodies belonging to the same jurisdictional division and located in the same council.

The Central Register of Vital Statistics and the Single Registers of Vital Statistics in each city where they exist.

Each Prosecutor Office or units attached to such Office.

In Forensic Institutes those units which have been specifically contemplated in their incorporation charter.

In the National Institute of Toxicology and Forensic Science, those units which have that nature according to its incorporation charter.

The Judiciary Mutual Fund.

Each judicial office providing support to Justices of Peace for more than 7,000 inhabitants or less than 7,000 inhabitants staffed with civil servants due to their workload.

B) Type of position. To these purposes, positions are classified in general and specific ones.

General positions are the ones which are not differentiated in terms of organizational structure and entail the execution of tasks or functions usually performed by an administrative body and therefore they do not have any individualised content. Positions related to direct support procedural units for judicial bodies are usually general positions.

Specific positions are differentiated in terms of organizational structure and involve the performance of functions or duties which have been assigned on an individual basis. To these purposes, in those Autonomous Communities which have their own language, its knowledge will only become a key component of the specific nature of that position when it is required for particular duties assigned to that position and established in the corresponding job description.

C) Provision of office. To the purposes of job description lists, the final provision of offices will be made either by merits contest or discretionary appointment.

D) Body or bodies to which the positions have been ascribed. Positions will be generally ascribed to one body only. Notwithstanding, certain positions in which the academic qualifications are not considered an essential requirement and qualifications may be determined by factors other than belonging to a certain body it will be possible to ascribe a given position to two administrative bodies. Positions specified in the job descriptions list of the judiciary offices will be ascribed exclusively to bodies at the service of the administration of justice due to their specialised knowledge.

4. Notwithstanding the foregoing requirements, lists of job descriptions may also include:

1) Specific academic qualifications in addition to the one corresponding to the Group in which such position has been ascribed when it is required considering the nature of the functions to be performed objectively.

2) Specific training, when the nature of the position requires it and it may be proved in a documentary manner.

3) Oral and written competence of the official language of the Autonomous Communities which have their own recognised language.

- 4) Information technology skills when they are necessary for that position.
- 5) Other conditions considered relevant for the nature of position or its performance.

Article 522.

1. The Ministry of Justice will draft and approve following a report by the Council General of the Judiciary and negotiations with the most representative trade unions, the lists of job descriptions which provide a classification of the different positions with the judicial offices and their corresponding scope of action. Likewise, it will be competent for the organization chart of positions in judicial offices ascribed to the Judicial Clerkship Body in all the territory of the State on the basis of a report from the Council General of the Judiciary and following a negotiation with the most representative trade unions.

2. The Autonomous Communities with devolved competencies in this area, on the basis of a report prepared by the Council General of the Judiciary and following negotiation with the most representative trade unions will approve the blueprint of the list of job descriptions in the judicial officers within their respective territories. Final approval is vested in the Ministry of Justice who may only refuse to do on invoking breach of legal provisions.

Article 523.

1. Once the blueprint of the job description lists have been approved, the Autonomous Communities and the Ministry of Justice within their respective territories may:

One. Reorganize non-specific positions in each judicial office.

Two. Reorganize positions which refer to units that no longer exist in that judicial office following a turnaround of the organizational structure.

Three. Reorganize positions between different judicial offices.

Four. Do away with certain positions.

2. In any event, amendments to the initial lists of job descriptions which may take place will take into account the principles listed in this law for the reorganization and restructuring of staff and in particular the following rules will be observed:

One. The competent administrations will draft a reasoned plan which is then discussed with the most representative trade unions.

Two. The name, remuneration and other features of the positions affected by this measure and under no event it may entail that the officials will have to work in another council.

Three. At all times, the minimum staffing levels for the direct support procedural units established will be observed.

Four. A prior report from the Council General of the Judiciary is required to make this restructuring process effective prior notice to the Ministry of Justice.

PART VIII Provision of offices and mobility

Article 524.

1. The provision of work positions will be made through the usual selection proceedings, either by the ordinary system or by discretionary appointment depending on the corresponding job descriptions and in view of the nature of the duties to be carried out.

2. Positions may be covered temporarily by provision appointment or secondment.

3. Likewise and due to organizational reasons, positions may be covered by means of reorganization or restructuring of existing staff.

Article 525.

The Ministry of Justice and the Autonomous Communities with competencies in this area within their respective territorial scope are competent for the distribution of positions in the terms, conditions and procedures established in this Public Act and in the General Regulations of Access, Provision of Office and Professional Promotion.

Article 526.

1. The selection process will consist in the verification and evaluation of merits invoked pursuant to the regulations of the selection process and on the basis of the grading system established in these regulations.

a) Transfer proceedings. This procedure is used to cover general positions. Evaluation of merits is made in the manner and pursuant to the grading system established in the Royal Decree which approved the General Regulations of Access, Provision of Office and Professional Promotion.

b) Specific selection proceedings: This procedure is used to cover specific work positions. It will have two stages:

One. Verification and evaluation of general merits pursuant to the provisions of paragraph 1 a) hereunder.

Two. In the second phase, specific skills will be evaluated by means of experience, academic qualifications and other elements which ensure that the candidate is suitable for the position. These skills will be assessed in the manner established in the selection regulations but they may not account for more than 40 per cent of the total maximum percentage of both stages.

2. In the discretionary appointment system, the competent body will establish if the candidates are suitable considering the requirements for the position. Managerial positions may be staffed by this procedure and also any other ones which require special responsibility and dedication, when so foreseen in the corresponding job descriptions.

3. Public notice of these proceedings in the Official State Gazette and in the Official Gazette of the Autonomous Community is mandatory, indicating the name of the position, location, remuneration and when applicable the minimum requirements applicable.

Article 527.

Notwithstanding the possibility of appointing interim officers on the grounds of urgency or need in the terms established in Article 427(2), vacant positions or in the case of absence of the incumbent holder will be covered temporally in the following manner:

1. Vacant positions until the current provision mechanisms are completed or in the event of their finalisation if no suitable candidate exists, will be covered by officials who meet the necessary requirements to perform such duties by means of secondment which may be voluntary or mandatory. Officials performing secondment duties will retain their original position and are entitled to supplementary remuneration for the position they also hold. If secondment is obligatory, and the remuneration for the duties in that position is lower than the ones of his original position, he will be entitled in any event to the supplementary salary items which are higher.

2. Exceptionally, vacant positions may be covered temporally by replacement or when the incumbent officer is enjoying a long term leave of time-off.

To be appointed deputy official, the candidate must meet the requirements established to hold that position in the corresponding job description.

By means of regulations, the cases and procedure for replacement of officials will be established.

In the event of a position ascribed to the Judicial Clerkship, the procedure and requirements for replacement will be the one expressly established for the appointment of deputy court clerks.

Likewise, positions may be held on a temporary basis by provisional appointment in the event of removal or resignation.

Public servants appointed to a position of discretionary appointment may be removed from office on a discretionary basis following a resolution which must only establish the authority to issue such decision. Officeholders by having passed a selection process or by virtue of a discretionary appointment may resign from their position by means of a reasoned request expressing the personal or professional reasons and provided further that they have been in that position for at least one year.

In the foregoing cases, officials will be ascribed on a provisional basis until they do not secure a tenured position to a position within their body in the same council and with legal effects from the next day to the removal resolution or when the resignation was accepted.

Career officials who are reincorporated to active service from a situation which does not entitle them to retain their position may also be ascribed provisionally to a position within their administrative body. In this case, such attachment depends on the needs of the department.

Article 528.

1. Staff reorganization.

Officials who occupy general positions on a final basis may be ascribed due to administrative requirements to other positions of the same nature, with identical general allowance and specific allowance for that position in the same centre where they perform their duties.

The position obtained by means of staffing reorganization is considered final and the minimum time of holding office to take part in selection procedures will be reckoned from the moment he secured that final appointment, and the minimum tenure of office in terms provided in Article 529(3), shall be reckoned with regard to the position he held at the time of the reorganization process.

2. Staff restructuring. Due to organizational reasons and by the corresponding amendments in the lists of job descriptions, the holders of general and specific provisions may be ascribed to other destination centres.

This professional mobility shall be carried out on the basis of a project prepared by the competent administrations and negotiated with the most representative trade unions by voluntary move procedures.

The positions or offices which are not covered will be subsequently assigned by means of a mandatory assignment procedure in the terms established in the regulation.

Officers subject to restructuring procedures are exempted from the minimum term of office requirement foreseen in article 529 and they will have a pre-emptive right to obtain a position in the centre where they originally rendered their services in the first selection proceedings which offers an appointment in that centre.

To the purposes of determining the position which falls under the restructuring measures, if there are several positions involved, willingness to move by the officials holding those positions will be first considered and subsequently seniority in that position.

Article 529.

1. The Ministry of Justice and the Autonomous Communities will convene selection procedures on a national basis to cover vacant positions in their respective territories. The Regulations for Access, Provision of Work Positions and Professional Promotion of officials at the service of the administration of justice will establish the rules for these selection procedures and the general merits that will be considered.

2. Officials, regardless of their administrative situation may take part in these selection procedures, except those officials suspended from their duties who may not take part until the suspension has

not been lifted and provided further that they meet the general conditions demanded and the requirements established in the notice of these proceedings at the date in which the deadline to submit their applications expires and provided further that they are not subject to any limitations to hold office at the place of their destination.

3. It is not possible to take part in transfer proceedings for the provision of general positions until two years have elapsed since the official obtained his last appointment from which he takes part in the new selection procedure or since the resolution which granted them a final appointment in the event of officials which have just accessed the civil service.

4. Public servants who do not have a final appointment are obliged to take part in transfer proceedings according to the current legal provisions and they are excluded from the time limitation established in the foregoing section.

Article 530

In the provision of positions in Autonomous Communities which have competencies in this area with their own language, oral and written skills in that language will be considered a merit. In some positions, it may be considered as a requirement to gain access to them when the nature of the duties to be carried out is the reason for that requirement and it has been foreseen in the corresponding job descriptions.

Article 531

1. The provision of general vacant positions will be covered by transfer proceedings which must be convened and decided on by the Ministry of Justice and the Autonomous Communities which have been assigned human resources. All officials may take part in them provided that they meet the necessary requirements regardless of the territory where they hold office.

2. These proceedings will be convened at least once a year on the same date for all the territory of the State and will be decided on by each convening administration to ensure that each candidate may only take possession of one office and in the same body.

To that purpose, the General Regulations of Access, Provision of Office and Professional Promotion of officials at the service of the administration of justice will contain the rules applicable to all transfer proceedings ensuring equal opportunities for all civil servants and implementing a system which permanently guarantees immediacy and a speedy provision of vacancies, a timetable for the selection procedure and a decision-making process on the transfer applications to make it possible to determine which positions will be offered to officials who have just entered the civil service pursuant to the provisions of Article 488.3.

3. Notice of these proceedings will be made in the Official State Gazette and in the Official Journals of the Autonomous Communities.

4. These selection proceedings will offer the vacancies determined by the competent public administrations and the ones arising from the selection proceedings itself, provided that they are no longer available.

Article 532

1. Specific selection proceedings will be convened and decided on by each administration in their territory ensuring that notice of said proceedings and their resolutions do not interfere with the results of the selection procedures convened by the respective administrations in which civil servants at the service of the administration of justice may take part regardless of the place where they perform their duties.

2. General merits to be considered will be established in the General Regulations of Access, Provision of Office and Professional Promotion of officials at the service of the administration of justice.
3. Specific merits will be suitable to the characteristics of each position and will be determined in the notice of the selection proceedings, under no event they may exceed the maximum percentage of the total scoring established in article 526.

Article 533.

1. The aforementioned merits will be verified and evaluated by a commission which will be made up of four members representing the convening Administration and designated by the latter, of whom one at least will be an official working for the Administration of Justice.
2. All members must belong to bodies of equal or higher qualification than the one required for the position convened and will hold offices of identical or higher rank than the one offered. The Chairman and the Secretary will be appointed by the convening authority amongst members designated by the administration.

PART IX Disciplinary liability

Article 534.

1. Court clerks and officials belonging to administrative bodies contemplated in this Volume are subject to disciplinary liability and may be sanctioned in the cases and subject to the principles contemplated in this Public General Act.
2. Apart from the material authors any senior officials who consented or instigated or covered up very serious and major offences will also be held liable for disciplinary breach, when such acts cause damage to the Administration or to the citizens.
3. Sanctions for very serious and major offences may only be imposed in the course of disciplinary proceedings instituted pursuant to the procedure established in the General Regulations on Sanctioning Proceedings for officials at the service of the administration of justice issued to further develop certain matters of this Act.

In order to impose sanctions for minor infractions it is not required to open proceedings but the alleged offender must be heard.

4. When in the course of disciplinary proceedings, it appears that a criminal offence may have been perpetrated, its handling will be suspended and the Public Prosecutor will be informed of this circumstance.
5. Opening criminal proceedings will not be an obstacle to initiate disciplinary proceedings for the same matters but until a final sentence has been given in the criminal suit or the latter has been dismissed, it will not be possible to enter a decision thereon.

In any event, the facts as found of the decision which completes the criminal proceedings will be binding for the resolution given in the course of the disciplinary proceedings notwithstanding the different legal considerations which may be applicable in each procedure.

A person may only be subject to criminal and disciplinary sanction when the legal considerations and the protected public interest differs.

6. During the proceedings the alleged offender may be suspended from office as a cautionary measure which will have to be reasoned.
7. Disciplinary sanctions will be entered in the Personnel Record indicating the circumstances of the infraction. These entries will be cancelled after the term established for its lapse in the regulations.

Article 535.

The disciplinary proceedings established by virtue of this Public General Act must ensure that the public servant subject to those proceedings will benefit from the rights set out in Article 35 of Act 30/1992, November 26th, - Legal Framework of Public Administrations and Common Administrative Procedure (Ley del Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común) and from these rights as well:

- 1) Presumption of innocence
- 2) To be notified to the designation of an investigator and a secretary and to file a motion for their recusation.
- 3) To be notified of the alleged facts, the nature of the infraction and the sanctions which may be imposed, if any, and of the sanctioning resolution.
- 4) To file pleadings.
- 5) To submit any evidence in order to clarify the events.
- 6) To act in the proceedings assisted by legal counsel or trade union representatives

Article 536.

Infractions are divided into three groups: very serious, major and minor infractions.

A) Very serious infractions:

1. Breach of loyalty to the Constitution in the discharge of his public duties.
2. Any acts on his part which entail a discrimination for reasons of sex, race, religion, language, opinion, place of birth, place of residence or any other social or personal condition or circumstance.
3. Abandonment of duties.
4. Issuing reports or adopting resolutions or decisions which are clearly illegal when major damage is caused to general interest or the fundamental rights of the citizens are infringed.
5. Undue use of documents or information which they have had access to by virtue of their office or position.
6. Negligence in the custody of documents leading to their illegal dissemination or disclosure.
7. Repeated breach of the functions attached to his position or of the duties entrusted to him.
8. The use of the faculties vested in him to influence in any election process regardless of its nature or scope.
9. Breach in compliance with judicial decisions which should have been enforced by him.
10. Acting in contempt or disrespectfully repeatedly with regard to the written or verbal orders or instructions given by his supervisor in the exercise of his competencies referred to the functions or duties of the position held by him, unless they are clearly illegal.
11. To invoke his appointment as a public official to obtain any undue benefit for himself or for a third party.
12. Engage in any activity conflicting with his office in the terms established by law.
13. Refrain from abstaining to handle any matter in spite of being aware that he is under a disqualifying circumstance.
14. Acts which prevent individuals from exercising their fundamental rights, public freedoms or trade union rights.
15. Breach of assisting the basic services provided in the event of general strikes.
16. Sexual harassment.
17. Serious assault to any person with whom he transacts in the course of his duties.
18. Abuse of authority which causes serious damages to his subordinates or to the department.
19. Actions or omissions which have made that official civilly liable in a final judgment given with regard to the discharge of his official duties in a malicious or negligent manner.

20. Perpetration of any serious infraction when he has been previously sanctioned for two other serious infractions not subject to further appeal and they have not been cancelled or the corresponding entries thereof have not been cancelled.

B) The following are considered major offences:

1. Clearly disobey the orders or instructions of a senior officer issued by the latter in the exercise of his competencies referred to the functions or duties of the position held by him, unless they are clearly illegal.
2. Breach of enforcement of judicial decisions when it is not considered a very serious offence.
3. Abuse of authority in the exercise of his duties, when it is not considered a very serious offence.
4. Negligence in the custody of documents, undue use of documents or information obtained by virtue of his office, when it is not considered a very serious offence.
5. Absenteeism from work for the third time in a three months period.
6. Negligence or unjustified delay in compliance with the duties attached to his position or of the functions entrusted to him when the official is not in flagrant contempt of these.
7. The exercise of any activity which may be compatible pursuant to the Spanish Act 53/1984, December 26th .- Disqualifying circumstances for personnel at the service of the Public Administrations without having secured the corresponding authorisation or if it has been obtained by misrepresentation of the facts invoked.
8. Contempt towards his senior officials, colleagues or subordinates, and also with professionals or citizens.
9. Cause serious damage to documents or work materials or at the premises where the services are being rendered.
10. Inadequate use of computer resources and materials in the exercise of his functions and breach of the instructions given concerning its use, illegal use of passwords and access keys to information systems.
11. Actions or omissions intending to avoid the timetable control system or prevent absenteeism from being known.
12. Refrain from exacting disciplinary liabilities regarding the personnel in his office when he is aware or should have been aware of a breach on their part of their duties.
13. Hinder inspection activities.
14. Invoke his abstention in a matter without any grounds for this claim.
15. Repeated breach of his working day without any justifying circumstances.
16. Perpetration of any minor infraction when he has been previously sanctioned for two other minor infractions not subject to further appeal and they have not been cancelled or the corresponding entries thereof have not been cancelled.

C) Minor infractions:

1. Lack of respect towards his senior offices, colleagues or subordinates, professionals and citizens when it is not considered a serious offence.
2. Breach of the duties or functions attached to his office or negligence in their performance, when it is not considered a serious offence.
3. Unwarranted delay in the discharge of his duties when it is not considered a serious offence.
4. Absence from work for one day without reason.
5. Breach of his working day without reasons for this when it is not considered a serious offence.

Article 537.

The General Regulations of Sanctioning Procedures for officials at the service of the administration of justice will establish the criteria to grade the offences based on the following principles:

- 1) Degree of intention
- 2) Damage caused to the administration or to citizens.
- 3) Degree of participation in the perpetration of the offence or the infraction.

4) Recidivism.

Article 538.

Sanctions applicable to public officers for infractions in the course of their duties are the following:

- a) Admonition.
- b) Suspension from office and pay.
- c) Mandatory transfer to another city.
- d) Removal from service.

Sanctions foreseen in paragraphs b) and c) may be imposed when very serious or major infractions have been perpetrated, and their term will be graded according to the circumstances which have been appreciated in the events that led to such sanction.

Suspension from office imposed due to a very serious offence may not exceed six years nor be less than three years. If it has been imposed due to a major offence it may not exceed three years.

Officials who are sanctioned with mandatory transfer may not obtain a new appointment in the same city for a three-year period when the infraction was very serious and for one year in the event of a major offence.

Minor offences may only be subject to admonition.

Article 539.

Officers included in the bodies contemplated in this Volume are competent to initiate and handle disciplinary proceedings and to impose sanctions, as well as the Ministry of Justice, and the bodies determined by the Autonomous Communities with competencies in this area in their respective territories and with regard to the officials appointed thereat.

Removal from service must be decreed by the Minister of Justice in any event.

When mandatory transfer implies that the official has to leave the territory of an Autonomous Community to another one which also has devolved competencies, the Ministry of Justice will resolve on this matter following a favourable report by the Autonomous Community to which territory the sanctioned official has been transferred.

Article 540.

1. Minor infractions will become statute-barred in two months; major infractions in the term of six months and very serious offences within the term of one year. The term will be reckoned since they were perpetrated.

2. In those cases in which the findings lead to criminal proceedings, the statute-barred periods will not be reckoned until it has concluded.

3. Statute-barred periods will be interrupted from the moment disciplinary proceedings are filed and the term will be reckoned again if the proceedings are paralysed for more than six months on grounds which are not attributable to the official subject to those proceedings.

4. Sanctions imposed will lapse after four months in the case of minor infractions; one year in the case of major offences and two years in the case of very serious infractions. The statute-barred period will be reckoned from the next day in which the resolution which imposed those sanctions becomes final.

VOLUME VII THE PUBLIC PROSECUTION AND OTHER PERSONS AND INSTITUTIONS WHICH COOPERATE WITH THE ADMINISTRATION OF JUSTICE

PART I The Public Prosecutor

Article 541.

1. Notwithstanding the functions entrusted to other bodies, the Public Prosecutor is responsible for upholding Justice in defence of the rule of law, preserving the rights of citizens and public interest protected by law acting either *ex officio* or at the request of the applicants, guaranteeing the independence of the courts and ensuring that citizenship interests are satisfied thereat.

PART II Attorneys and Court representatives

Article 542.

1. The term and the duties of an attorney refer to the holders of a law degree who practises the profession and defends and handles the defence of parties in any proceedings or provides them with legal counsel of advice.
2. In their appearance before courts and tribunals, attorneys shall enjoy freedom and independence guided by the principle of acting in good faith and will have all rights attached to their duties and arising from freedom of expression and defence.
3. Attorneys must not disclose any information or particulars they may be aware of in the course of their legal practice and may not be asked to depose on any of these matters.

Article 543.

1. Court representatives (barristers) will represent the parties in any and all proceedings unless the law provides otherwise.
2. They may make any notices to the parties in the proceedings as permitted by law.
3. Barristers are subject to the provisions of paragraph (3) above.
4. In the exercise of their functions, court representatives may be replaced by another court representative. For certain acts and according to the procedure established in the regulations, they may be replaced by a duly authorised officer.

Article 544.

1. Attorneys and court representatives prior to practising the profession must swear on oath or promise to abide by the Constitution and by the rest of the legal system.
2. It is mandatory to belong to a professional association for attorneys and court representatives to appear before the courts and tribunals in the terms established by law and by the general legislation applicable to professional associations except when they act at the service of public administrations or public entities in the capacity of a civil servant or under an employment relationship.

Article 545.

1. Except as otherwise provided by law, the parties may freely choose their representatives and counsel among barristers and attorneys who meet the requirements established by law.

2. They will be appointed by the court as established in the legal provisions on the matter to whoever requests legal aid or if the party refuses to appoint them when it is mandatory to do so.
3. In Labour and Social Security proceedings the legal defence may be entrusted to a registered industrial counsellor to whom the obligations attached to his office will apply in particular the ones established in articles 187, 542(3) and 546 of this Act.

Article 546.

1. The public authorities are obliged to guarantee the legal defence and legal aid in the terms established in the Spanish Constitution and in the laws.
2. Lawyers and barristers are subject to civil, criminal and disciplinary liability in the exercise of their profession, as may be applicable.
3. Disciplinary admonitions for their actions in courts and tribunals will be governed by this Act and by procedural laws. Disciplinary liability arising from their professional conduct will be determined by their Councils and Associations as provided in their by-laws which must in any event guarantee the right to defence throughout the sanctioning proceedings.

PART III The Judiciary Police

Article 547.

The mission of the Judiciary Police includes assistance to courts and tribunals and the Public Prosecutor in the investigation of offences and the discovery and arrest of the offenders. All Security Forces and Bodies will be obliged to perform this function when they have been so requested regardless of whether they are under the supervision of the Central Government of the Autonomous Communities or the local councils, within the sphere of their respective competencies.

Article 548.

1. Judicial Police Units will be established which will depend report functionally to the judicial authorities and to the Public Prosecution in all actions entrusted by these bodies to them.
2. A statute will determine the organization of these units, the recruitment process and the legal status of its members.

Article 549.

1. The Judiciary Police is vested with the following functions:
 - a) Investigation on the offenders and circumstances surrounding a crime and their arrest informing the judicial and tax authorities as soon as practicable pursuant to the laws.
 - b) Assistance to the judicial and tax authorities in any activities carried out outside their offices and which require the presence of the police.
 - c) The material execution of actions which require the use of force and which have been ordered by the judicial or tax authorities.
 - d) Ensure compliance with orders and resolutions given by the judicial or tax authorities.
 - e) Any others of whatever nature in which such cooperation or assistance is necessary and which have been ordered by the judicial or tax authorities.
2. Under no event members of those units may be entrusted with actions which are not part of the Judiciary Police duties or related to them.

Article 550.

1. In criminal investigation functions, the Judiciary Police will act under the orders of the courts and tribunals and of the Public Prosecutor.
2. Judicial police officers who have been entrusted with inquiries or actions within the competencies established in Article 547 of this Act, may not be removed or transferred until the inquiry has been completed or in any event until the judicial proceedings which gave rise to the investigation have ended, unless a competent judge or prosecutor provides otherwise.

PART IV Representation and defence of the State and other public bodies

Article 551.

1. The representation and defence of the State and its independent agencies, as well as the representation of constitutional bodies when their internal regulations do not contemplate a special system will be entrusted to the State Attorneys who work for the legal department of the State. Court attorneys may represent and defend all other public bodies and entities, public corporations and non-for-profit state organizations in the terms established in Act 52/1997, November 27th – Legal Assistance to the State and Public Institutions and other enabling regulations. The representation of the management bodies and the Comptroller’s General Office of the Social Security is vested in the Attorneys of the Social Security notwithstanding that in both cases and pursuant to applicable regulations they may be entrusted to an attorney specially appointed to this purpose who is registered at the Bar Association.
2. Representation and defence of Parliament, of the House of Representatives, of the Senate, of the Central Electoral Committee and of any bodies or institutions linked to these is vested in the Parliamentary Legal Counsel who perform their duties at the corresponding Secretariat General Offices.
3. Representation and defence of Autonomous Communities and local entities will vest in the attorneys who work in the legal department of those Public Administrations unless they appoint an attorney who represents and defends them duly registered in the Bar Association. State Attorneys may represent and defend Autonomous Communities and local councils in the terms set out in Act 52/1997, November 27th – On legal assistance to the State and Public Institutions and its enabling regulations.

PART V Sanctions which may be imposed to the persons involved in suits or legal proceedings

Article 552.

Attorneys and barristers taking part in suits and legal proceedings in the event of any breach their duties in terms of this Act or any other procedural laws may be admonished in the terms established in this Section provided that the actions are not considered an offence.

Article 553.

Attorneys and barristers may also be subject to disciplinary proceedings for their actions at the courts and tribunals when:

One) They act in a disrespectful manner in the courtroom or they submit offensive written briefs against judges, courts, prosecutors, other attorneys, court clerks or any person who is present or takes part in the proceedings.

Two) Having been admonished to refrain from verbal abuse they repeatedly disobey the presiding officer.

Three) They do not appear before the Court without any justification when they have been duly summoned.

Four) They refuse to continue providing legal counsel or defence without any justification within the seven days prior to the trial or the hearing.

Article 554.

1. Admonishments may be imposed to the persons mentioned in the preceding two articles are:

a) A warning.

b) A fine which may not exceed the sum established in the Criminal Code for infractions.

2. The fine imposed will take into account the seriousness, background and circumstances surrounding those actions and in any event they will be passed at a hearing in which the offender is present.

Article 555.

1. Admonishments will be imposed by the authority in charge of the proceedings.

2. It may be made in the course of the same proceedings or subject to specific proceedings. In all cases, the court clerk will record the facts that led to the admonition, the pleadings of the admonished and the resolution adopted by the judge or by the bench.

Article 556.

The resolution leading to an admonishment is subject to justice appeal in the term of five days at a hearing before the court clerk, the judge or the bench who will issue a decision on that same day.

This decision or the resolution providing for an admonishment may be subject to revision appeal provided that the party has not resorted to justice appeal, which must be filed within the term of five days before the Board of Governance which will decide on the matter on the basis of a prior report drafted by the court clerk, the judge or the bench who passed that admonishment in the first meeting held by said Board.

Article 557.

When any special admonishment foreseen in procedural laws for specific cases applies, it will be so applied and the procedure for entering such admonishment and the available remedies will be governed by the preceding two articles.