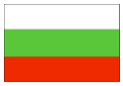



PHARE TWINNING PROJECT BG-04-IB-JH-04
(08-2005 -- 08-2007)
Improvement of the Magistrates' Legal Status and Strengthening the Capacity of the Supreme Judicial Council
SUPREME JUDICIAL COUNCIL 9, Saborna Str 1000 SOFIA (Bulgaria)

MANUEL MAZUELOS FERNANDEZ-FIGUEROA
Senior Judge
EU Resident Twinning Adviser
mazferma@hotmail.com
http://212.122.184.99/spain/spain.htm.

SPANISH LABOUR PROCEDURE ACT

May 2007

Translated by AKKAM RESEARCH SERVICES, S.L. –Madrid - Spain

MANUEL MAZUELOS FERNANDEZ-FIGUEROA
Senior Judge
EU Resident Twinning Adviser
mazferma@hotmail.com
http://212.122.184.99/spain/spain.htm.

TABLE OF CONTENTS OF ROYAL LEGISLATIVE DECREE 2/1995 of 7 April. SPANISH MINISTRY OF JUSTICE AND HOME AFFAIRS

PAGE

Royal Legislative Decree 2/1995, of 7 April. MINISTRY OF JUSTICE AND HOME AFFAIRS. LABOUR PROCEEDINGS. Approval of the Revised Text of the Labour Procedure Act (Official State Gazette, 11 April 1995, no. 86 [page 10695]; [RCL 1995\1144]) Last updated: 24 March 2007

The Sixth Final Provision of Act 42/1994, of 30 December (RCL 1994, 3564 and RCL 1995, 515), on Tax, Administrative and Industrial Measures, authorised the Government, within a term of three months following its effective date, to draw up a Revised Text of Royal Legislative Decree 521/1990, of 27 April (RCL 1990, 922 and 1049), to approve the Articulated Text of the Labour Procedure Act, incorporating therein the modifications introduced by the aforementioned Act, by Act 11/1994, of 19 May (RCL 1994, 1422 and 1651), which modifies certain articles of the Spanish Workers' Statute (RCL 1980, 607), of the Articulated Text of the Labour Procedure Act (RCL 1990, 922 and 1049) and of the Act on Infringements and Sanctions in Industrial Matters (RCL 1988, 780); by Act 14/1994, of 1 June (RCL 1994, 1555), regulating employment agencies, and by Act 18/1994, of 30 June (RCL 1994, 1887), which modifies the regulations governing elections to representative bodies of staff at the service of the Public Administration, of Act 9/1987, of 12 June (RCL 1987, 1450), modified by Act 7/1990, of 19 July (RCL 1990, 1505).

This Royal Legislative Decree is a result of the foregoing; further to the mandate received, it shall incorporate a Revised Text of the Labour Procedure Act, gathering the aforementioned modifications.

By virtue of which, at the request of the Ministry of Justice and Home Affairs, and further to a report issued by the General Council of the Judiciary, in agreement with the State Council and further to the discussion held by the Council of Ministers at its meeting held on 31 March 1995, I hereby provide as follows:

Single Article.

The Revised Text of the Labour Procedure Act that is inserted below is hereby approved.

REPEALING PROVISION.

Single Provision.

The following provisions are hereby repealed: the Articulated Text of the Labour Procedure Act, approved by Royal Legislative Decree 521/1990, of 27 April (RCL 1990, 922 and 1049); Chapter II of Act 11/1994, of 19 May (RCL 1994, 1422 and 1651), on the amendment of certain articles of the Workers' Statute (RCL 1980, 607), of the Articulated Text of the Labour Procedure Act (RCL 1990, 922 and 1049) and of the Act on Infringements and Sanctions in Industrial Matters (RCL 1988, 780); the Second Additional Provision of Act 14/1994, of 1 June (RCL 1994, 1555), regulating employment agencies; the Single Additional Provision of Act 18/1994, of 30 June (RCL 1994, 1887), which modifies the regulations governing elections to representative bodies of the staff at the service of the Public Administration, of Act 9/1987, of 12 June (RCL 1987, 1450), as amended by Act 7/1990, of 19 July (RCL 1990, 1505), and Chapter V, Title II, of Act 42/1994, of 30 December (RCL 1994, 3564 and RCL 1995, 515), on Tax, Administrative and Industrial Measures.

FINAL PROVISION.

Single Provision.

This Royal Legislative Decree and the Revised Text it approves shall come into force on 1 May 1995.

ANNEX

Revised Text of the Labour Procedure Act

BOOK I GENERAL MATTERS

TITLE I Exercise of jurisdictional powers

*CHAPTER I **Jurisdiction***

Article 1.[General framework]

The jurisdictional bodies in industrial matters shall examine any claims brought within the industrial branch of law, both in individual and collective disputes.

Article 2.[Types of litigious matters]

The jurisdictional bodies in industrial matters shall examine any litigious matters that may arise:

a) Between employers and workers as a result of an employment contract, except as provided in the Bankruptcy Act.

b) In Social Security matters, including unemployment benefits.

c) Further to systems implemented to improve Social Security protection, including pension plans and insurance contracts, provided that the matter is derived from an employment contract or Collective Bargaining Agreement (CBA).

d) Amongst associates and Mutual Funds, except for those established by Professional Associations, in the terms foreseen in Articles 64 ff. and in the Fifteenth Additional Provision of Act 30/1995, of 8 November (RCL 1995, 3046), on the Arrangement and Supervision of Private Insurance, including labour foundations or between these foundations and their beneficiaries, in relation to the fulfilment, existence or declaration of their specific obligations and asset rights, further to the purposes and obligations inherent thereto.

e) Against the State, if liable under employment law.

f) Against the Salary Guarantee Fund, if liable under employment law.

g) On the incorporation and recognition of the legal status of Trade Unions, including any challenge and amendment of their internal regulations.

h) In specific legal matters affecting Trade Unions, both under law or their internal regulations, regarding internal operation and relations with trade union members.

i) On the incorporation and recognition of the legal status of employer Associations, as defined in the Repealing Provision of Organic Act 11/1985, of 2 August (RCL 1985, 1980), on Trade Union Rights, including any challenge and amendment of their internal regulations.

j) On the liability of Trade Unions and employer Associations in the event of a breach of a rules in the industrial branch of law.

k) On the protection of trade union rights.

l) In collective dismissal proceedings.

m) On challenges to CBAs.

n) In proceedings related to elections, including the refusal to register election certificates and elections to representative bodies of staff at the service of the Public Administration.

ñ) Between Cooperative Employment Companies, as Associations or Corporations, and their employed partners, in their status as such.

o) Between employers and workers as a result of placement contracts.

p) In relation to any other matters that may correspond by virtue of rules with the rank of an Act.

Article 3.[Excluded matters]

1. The following matters may not be examined by the Industrial Courts:

a) The protection of trade union rights and the right to strike, in relation to civil servants and staff referred to in Article 1.3 a) of the Revised Text of the Workers' Statute (RCL 1995, 997).

b) On the resolutions and acts issued in company registration matters, the formalisation of protection against occupational risks, tariffs, coverage of provisional disability benefits, membership, registration, de-registration and changes in workers' data, including settlement matters and collection measures and other administrative acts other than the management of Social Security benefits.

Furthermore, also excluded are any resolutions in collection matters, issued by the corresponding management entity in the case of collection quotas shared with the Social Security, including those related to settlement and infringement certificates.

c) Any claims related to the challenging of general provisions and acts issued by the Public Administration and subject to Administrative Law in employment matters, except for those indicated below.

d) Any claims to be examined and resolved under the exclusive and excluding jurisdiction of the bankruptcy judge, as reserved by the Bankruptcy Act.

2. The Industrial Courts shall examine claims related to:

a) Administrative resolutions regarding the imposition of any sanctions for any type of breach in industrial matters, with the exceptions foreseen in section 1.b) above.

b) Administrative resolutions related to dismissal proceedings and administrative measures in transfers of undertaking.

3. Within nine months following the effective date of this Act, the Government shall forward a Draft Bill to the General Courts in order to include the forms and procedural specialities related to the events foreseen in section 2 above into the Labour Procedure Act. This Act shall determine the effective date of the assignment to the Industrial Courts of the matters included in section 2 above.

CHAPTER II Competence

Article 4.[General competence]

1. The competence of industrial courts shall cover the examination and resolution of preliminary issues and prior rulings not pertaining to the industrial order, which are directly related to the issues attributed thereto, except as provided in section 3 below and in the Bankruptcy Act.

2. All preliminary issues and prior rulings shall be decided upon in the court resolution ending the proceedings. A decision shall not be effective outside the proceedings in which it is issued.

3. Until a resolution is issued by the competent court, all preliminary rulings in criminal matters shall suspend the term in which to adopt a decision, only if founded on documentary falsehood and when the solution of the foregoing is absolutely essential in order to issue a final ruling.

4. The suspension of enforcement due to a preliminary ruling in criminal matters will only apply if the documentary falsehood on which it is founded took place after the enforcement title was established, and shall be restricted to enforcement measures that are directly condition upon the resolution of such matter.

Article 5.[*Ex officio* declaration of non-competence*]*

1. If the courts deem that they are not competent to examine a claim, due to its subject matter or purpose, right after the claim is presented they will issue the corresponding order and advise the plaintiff before whom and how its rights may be enforced.

2. The same declaration shall be made when issuing a judgment, if the courts consider themselves not competent, and they shall refrain from examining the merits of the case.

3. An *ex officio* declaration of non-competence in the cases foreseen in the two foregoing paragraphs shall require a prior hearing of the parties and of the Public Prosecutor, within the same three-day term.

4. The appeals foreseen in this Act may be brought against the order declaring non-competence.

Article 6.[Industrial Courts]

The Industrial Courts shall examine in one instance all the proceedings attributed to the industrial jurisdiction, except as provided in Articles 7 and 8 herein and in the Bankruptcy Act.

Article 7.[High Courts of Justice]

The Industrial Chambers of the High Courts of Justice shall examine the following:

a) In one instance, those proceedings related to the matters referred to in sections g), h), i), k), l) and m) of Article 2, when their scope falls beyond the territorial scope of the Industrial Court's jurisdiction, without exceeding the scope of the Autonomous Community, as well as any others expressly attributed by law.

b) Any appeals foreseen herein that may be brought against resolutions issued by the Industrial Courts within their jurisdiction.

c) Any competence issues that may arise between Industrial Courts within their jurisdiction.

Article 8.[National Court *("Audiencia Nacional")*]

The Industrial Chamber of the National Court shall examine, in one instance, the proceedings referred to in sections g), h), i), k), l) and m) of Article 2, if their scope falls beyond the territorial scope of an Autonomous Community.

Article 9.[Supreme Court]

The Industrial Chamber of the Supreme Court shall examine:

a) Cassation appeals foreseen by law.

b) Review appeals against final judgments issued by the industrial courts.

c) Any competence matters that may arise between industrial courts without another common hierarchical superior.

Article 10.[Competence rules of Industrial Courts]

The competence of Industrial Courts shall be determined according to the following rules:

1. In general, the competent Court shall be the one located where the services are provided or where the defendant has its address, at the plaintiff's choice.

If the services are provided in places within various territorial jurisdictions, the worker may select from amongst them his/her address, the address indicated in the contract (if the defendant is able to be summoned therein) or the address of the defendant.

In the event that there are several defendants and an address were indicated as the applicable forum, the plaintiff may choose any of the defendants' addresses.

In claims brought against the Public Administration, the competent Court shall be the one located where the services are provided or where the plaintiff has its address, at the latter's choice.

2. In the proceedings indicated below, the competent Court shall be as follows in each case:

a) In proceedings related to the matter referred to in Article 2.b), the jurisdiction of the Court where the express or implicit resolution, challenged in the procedure, was issued, or the plaintiff's address, at the latter's choice.

b) In relation to those matters referred to in Article 2.c) and d), the Court located within the defendant or plaintiff's address, at the latter's choice, except for proceedings between Mutual Benefit Companies, where the defendant's forum shall be the one applicable.

c) In claims for salaries accrued during court proceedings ("*salarios de tramitación*") vis-à-vis the State, the Court that issued the dismissal order.

d) In relation to the matters referred to in Article 2.g) and i), the Court corresponding to the head office of the trade union or employer association.

e) In proceedings related to Article 2.h) and j), the Court located where the effects of the act(s) giving rise to the lawsuit took place.

f) In relation to the matter indicated in Article 2.k), the Court located where the harm was caused and for which protection is sought.

g) In election processes regulated in Section II, Chapter V, Title II, Book II of this Act, the jurisdiction of the Court where the Company or work centre is located; if the centres are located in different municipalities, where different Courts are competent, with a works council or staff representation body at the service of the Public Administration, the Court where the election board was initially established.

h) In relation to a challenge brought against CBAs and in collective dismissal proceedings, the jurisdiction of the Court within the scope of application of the disputed CBA or where the effects of the collective dismissal take place, respectively.

Article 11.[Competence rules of the High Court of Justice]

1. Territorial competence to examine the instance proceedings attributed to the Industrial Chambers of the High Courts of Justice shall apply as follows:

a) In collective dismissal proceedings or disputed CBAs, the jurisdiction of the Court where the collective dismissal has its effects, or the jurisdiction of the Court competent to examine the scope of application of the clauses of the disputed CBA, respectively.

b) In those related to the matter referred to in Article 2. g) and i), the jurisdiction of the Court where the Trade Union and Employer Association have their head office.

c) In relation to the matter referred to in Article 2.h), the jurisdiction of the Court where the effect of the act(s) giving rise to the lawsuit took place.

d) In proceedings related to the matter indicated in Article 2.k), the jurisdiction of the Court where the harm took place and for which protection is sought.

2. If there are several Industrial Chambers within the same High Court, the territorial competence of each shall be determined further to the rules established in the foregoing section, in relation to the Chamber's territorial competence.

3. In the event that the effect of the litigious matter were to cover the jurisdiction of several Chambers, without exceeding the territorial scope of an Autonomous Community, the corresponding Chamber shall be competent further to the distribution rules approved for this purpose by the Government Board of the High Court of Justice.

CHAPTER III *Disputed competence and competence issues*

Article 12.[Applicable law]

Any disputed competence between the bodies of the industrial courts and those of other jurisdictions shall be governed by the provisions established in the Organic Act of the Judiciary (RCL 1985, 1578 and 2635).

Article 13.[Excluded cases and procedure]

1. Disputes regarding competence may not be raised between Judges and Tribunals that are mutually dependent; in this case, the provisions established in Article 52 of the Organic Act of the Judiciary (RCL 1985, 1578 and 2635) shall apply.

2. Any disputed competence that is raised amongst industrial courts within the Jurisdiction shall be resolved by the immediately superior common body.

Article 14.[Events excluded from the Civil Procedure Act]

Competence issues shall be processed and resolved according to the provisions foreseen in the Civil Procedure Act, except as provided in the following rules:

a) Declinatory pleas shall be filed as absolute exceptions and shall be the subject of a prior ruling in the judgment, without suspending the course of the proceedings.

If a declinatory plea is rejected, the plaintiff may file its claim before the territorially competent body, and if the action is subject to a statute of limitations, it shall be deemed suspended from the time the claim is filed and until the judgment upholding the declinatory plea is rendered final.

b) If a restraining order is filed, the body receiving it shall forward it to the body examining the outstanding proceedings, as soon as possible; the latter shall suspend the proceedings until the restraining order is resolved.

Once the order declaring the inapplicability of the restraining application is rendered final, it shall be forwarded to the body examining the lawsuit, as soon as possible, which shall raise the suspension and continue with the proceedings.

If the steps taken were to indicate that the filing of the matter was exclusively aimed at delaying the proceedings, the resolution declaring that the restraining order is inapplicable shall impose the fine foreseen in Article 97.3, with sufficient reasoning, upon the party who filed the restraining order.

CHAPTER IV Abstention and challenges

Article 15.[Applicable law and procedure]

1. Abstention and challenges, according to their cause, shall be governed by the Organic Act of the Judiciary (RCL 1985, 1578, 2635), and their procedure shall be governed by the provisions established in the Civil Procedure Act.

Notwithstanding the foregoing, a challenge must be proposed before the Instance Court or before the conciliation and lawsuit and, in the case of appeals, before the day indicated for voting and ruling or the date of the hearing, as the case may be.

In any case, a proposed challenge shall not suspend enforcement proceedings.

2. Challenges shall be examined as follows:

a) If the challenged individual is the Chairman or one or more Magistrates of the Industrial Chamber of the Supreme Court, of the Industrial Chamber of the High Courts of Justice, or of the Industrial Chamber of the National Court, by a Magistrate of the Chamber to which the challenged party belongs, appointed according to a seniority roster.

b) If all the Magistrates of a Court are challenged, by the Magistrate appointed according to seniority from amongst those belonging to the corresponding Court, provided that he/she is not the object of the challenge, and if all the Magistrates belonging to the Industrial Chamber of the corresponding Court are challenged, by the Magistrate of the Contentious-Administrative Chamber that is designed by lots from amongst all members.

c) If the challenged party is an Industrial Judge, by a Magistrate of the Industrial Chamber of the High Court of Justice, appointed by virtue of a seniority roster.

Seniority shall follow the ranking order in judicial posts.

If it were impossible to fulfil the provisions of the foregoing paragraphs, the Government Board of the relevant Court shall appoint a supervisor, ensuring that

he/she is of a higher category or, at least, of greater seniority than the challenged party(ies).

3. Removals shall be resolved as follows:

a) By the Chamber foreseen in Article 61 of the Organic Act of the Judiciary, whenever the challenged party is the Chairman of the Industrial Chamber or two or more Magistrates of said Chamber.

b) By the Industrial Chamber of the Supreme Court, when a challenge is brought against one of its member Magistrates.

c) By the Chamber referred to in Article 77 of the Organic Act of the Judiciary, when a challenge is brought against the Chairman of the Industrial Chamber of the High Court.

d) By the Chamber referred to in Article 69 of the Organic Act of the Judiciary, when a challenge is brought against the Chairman of the Industrial Chamber of the National Court or against more than two Magistrates belonging to a Section in said Chamber.

e) If one or two Magistrates of the Industrial Chamber of the National Court are challenged, by the Section to which the challenged party does not belong or by the Section that follows in numerical order from the one to which the challenged party belongs.

f) If a challenge is brought against one or two Magistrates of the Industrial Chamber of the High Courts of Justice, by the Chamber in a Plenary Meeting (if not divided into Sections) or, otherwise, by the Section to which the challenged party does not belong, or by the Section that follows in numerical order from the one to which the challenged party belongs.

g) If the challenged party is an Industrial Judge, by the Industrial Chamber of the corresponding High Court of Justice, in a Plenary Meeting (if not divided into Sections) or, otherwise, by Section One.

TITLE II Parties to the proceedings

CHAPTER I Capacity and legal status to be a party

Article 16.[Capacity and legal status]

1. Any parties entitled to fully exercise their civil rights may appear in a lawsuit in order to defend their rights and legitimate interests.

2. Legal status to be a party in relation to rights and legitimate interests derived from employment contracts and the Social Security shall be held by workers between sixteen and eighteen years of age, if it were not mandatory to have the authorisation of their parents, tutors or person/Institution in charge in order to execute an employment contract, or if authorisation to execute the contract is obtained pursuant to labour law from their parents, tutors or person/Institution in charge.

3. In the events foreseen in the foregoing section, workers who are between sixteen and eighteen years of age may also act as party to a lawsuit in relation to trade union and representation rights.

4. Those individuals who are not fully entitled to exercise their civil rights shall be represented by legitimate attorneys or by whoever is appointed to cover their disability under law.

5. Legal entities shall be represented by their legal attorneys. Asset communities and groups shall be represented by those indicated as arrangers, directors or managers thereof.

Article 17.[Other authorised parties]

1. Holders of a subjective right or legitimate interest may bring an action before the bodies of the industrial courts in the terms established by law.

2. Workers' Trade Unions and Employer Associations shall be entitled to defend any economic and industrial interests inherent thereto.

CHAPTER II Representation and defence in court proceedings

Article 18.[Representation and procedure]

1. The parties may intervene on their own or may confer their representation to a Court Attorney, registered Labour Counsellor or other person who is fully entitled to exercise his/her civil rights. This representation may be conferred in a power of attorney, executed before a court Secretary or in a public deed.

2. If representation is granted to a Lawyer, the steps foreseen in Article 21.3 below must be followed.

Article 19.[Representation of various plaintiffs]

1. In proceedings where more than 10 plaintiffs are jointly bringing a claim, the plaintiffs must designate a common representative who shall be in charge of successive steps in the lawsuit. This representative must necessarily be a Lawyer, Court Attorney, registered Labour Counsellor, one of the defendants or a Trade Union. Said representation may be conferred in a power of attorney executed before a Court Secretary, in a public deed or by appearing before the administrative department entrusted with powers of conciliation, mediation or arbitration, or the body that assumes these powers. When filing the claim, the corresponding document executing this representation must also be provided.

2. Whenever the Court or Tribunals, further to Article 29, *ex officio* or at one of the party's request, agrees on a joinder of proceedings related to several claims filed against the same defendant, thereby affecting more than 10 plaintiffs, they shall be requested to appoint a common representative, who may be any of the subjects mentioned in the foregoing section. For this purpose, together with the notification to the plaintiffs of the joinder, they shall be summoned to appear before the Court Secretary within the next four days in order to appoint the common representative. If, on the hearing date, any of the summoned parties does not appear in due form, the common representative shall be appointed, it being understood that the non-appearing party accept the appointment carried out by the rest.

3. In any case, any of the plaintiffs may express its justified wish to appear on its own or to appoint its own representative, different from the one jointly appointed by the remaining plaintiffs.

Article 20.[Representation by Trade Unions]

1. Trade Unions may act in a lawsuit for and on behalf of member workers who so authorise them, defending their individual rights; said workers shall be bound by the outcome of said acts.

2. In the claim, the Trade Union must verify the worker's membership status and the existence of the worker's willingness to bring the proceedings. An authorisation shall be deemed as granted unless otherwise declared by the member worker. In the event that this authorisation were not granted, the worker may demand that the Trade Union assume the corresponding liability, which shall be resolved in separate labour proceedings.

3. If, at any stage of the proceedings, the worker were to indicate before the court that it had not received notification from the Trade Union or, if it received it but refused to grant authorisation to act on his/her behalf, the Court or Tribunal, after hearing the Trade Union, shall agree to shelve the proceedings with no further step being taken.

Article 21.[Defence of individuals]

1. Defence by a lawyer shall be optional before the instance court, except for the provisions established below, but may be used by any of the litigants, in which case the litigant shall bear all applicable fees or rights, subject to the exceptions contained in Article 2 d) of the Pro Bono Act (RCL 1996, 89).

2. If the plaintiff intends to appear in the lawsuit assisted by a lawyer or represented by a Court Attorney or registered Labour Counsellor, it shall duly state this in the claim. Furthermore, the defendant shall duly notify the Court or Tribunal in writing, within two days following the summons to appear in the lawsuit, so that, once the plaintiff is informed, it may be represented by a Court Attorney or registered Labour Counsellor, appoint a lawyer within an equal term or to request an appointment through the *ex officio* roster. Non-compliance with these requirements shall amount to the party's waiver to its right to receive counsel in the lawsuit from a lawyer, Court Attorney or registered Labour Counsellor.

3. If in any other step, other than the lawsuit, any of the parties were to act assisted by a Lawyer, the Judge or Tribunal shall adopt the necessary measures to ensure equal treatment of the parties.

4. The request to appoint a lawyer through the *ex officio* roster by workers and beneficiaries of the Social Security System shall entail the suspension of any statute of limitations or the interruption of a prescription of actions.

Article 22.[State Defence]

1. The representation and defence of the State and its Autonomous Bodies, Constitutional Entities, Autonomous Communities, Local Entities and other public Entities shall be governed by the provisions established in Article 447 of the Organic Act of the Judiciary (RCL 1985, 1578 and 2635) and other applicable rules.

2. The representation and defence of management entities and of the Social Security General Treasury shall be entrusted to the Lawyers assigned to the Social Security Administration, without prejudice to the fact that, in certain cases, representation may be conferred pursuant to the general rules of Article 18, or a lawyer may be appointed for this purpose.

CHAPTER III The intervention and participation in the lawsuit of the Salary Guarantee Fund

Article 23.[Salary Guarantee Fund]

1. The Salary Guarantee Fund may intervene as a party at any stage or moment of the proceedings, in lawsuits that may subsequently give rise to liability for payment of

salaries or indemnification to litigating workers, without this intervention involving a set-back or a stop in the course of proceedings.

2. In the case of Companies involved in bankruptcy proceedings, including those already declared insolvent or non-existing, the Judge, *ex officio* or at a party's request, shall summon the Salary Guarantee Fund, forwarding it the claim in order that it may undertake its legal obligations and allege whatever may be applicable in law.

3. In proceedings brought against the Salary Guarantee Fund pursuant to labour law, the factual statements contained in the court records on which the resolution of the case were based may be used for affidavit purposes, unless evidence is provided to the contrary.

Article 24.[Proceedings]

1. If payment of the benefits for which the Salary Guarantee Fund is legally liable took place before commencement of collection proceedings, upon the date collection proceedings are brought and subrogating all the rights and actions of the workers indicated in the collection title, payment of the amounts settled must be authentically ascertained and the fact that they correspond, in whole or in part, to the amounts acknowledged in the title.

2. Once collection is given leave to proceed, the court records shall indicate the subrogation and the affected workers or their representatives shall be notified. Said workers, if able to maintain credits derived from the title itself vis-à-vis the Company subject to collection, in the part not paid by the Fund, will be given the possibility to act as collecting parties within fifteen days maximum as of payment of the amounts obtained if said amounts were insufficient and they wished to receive payment or the proportional part of their credits vis-à-vis the Fund.

CHAPTER IV Right to pro bono assistance

Article 25.[Requirements]

1. Subject to the exceptions foreseen herein, justice shall be administered pro bono until the judgment is enforced.

2. Workers, beneficiaries of the public Social Security system, those who prove insufficient resources to be able to litigate and who enjoy the necessary court recognition, as well as those who are so entitled by any State provision or under international treaties included in domestic law, shall be entitled to appoint a Lawyer through the ex officio *roster, without having to pay fees, and shall be exempt from making the necessary deposits and consignments for the filing of any remedy.*

Repealed by Single Repealing Provision c) of Act 1/1996, of 10 January (RCL 1996, 89).

Article 26.[Procedure]

1. The acknowledgement of the right to pro bono litigation in the terms of the foregoing article shall be carried out by the court in charge of examining the main

issue, without an application being able to suspend such examination. Once the application is received, together with documents to justify the applicant's income or resources, the parties and State Prosecutor shall be summoned to appear within the next five days. Said hearing shall be held following the rules on verbal proceedings foreseen for ordinary lawsuits. Once the hearing is held, the Judge or Tribunal shall issue a ruling within a term of three days, which shall be non-appealable.

2. Judgements that acknowledge or reject a right to pro bono litigation shall not have the effect of res iudicata.

Repealed by Single Repealing Provision c) of Act 1/1996, of 10 January (RCL 1996, 89).

TITLE III Joinders

CHAPTER I Joinder of actions, proceedings and appeals

Section 1. Joinder of actions

Article 27.[General principle and exceptions]

1. The plaintiff may join in its claim as many actions it is entitled to against the defendant, even if derived from different titles.

2. Nevertheless and notwithstanding the provisions established in Articles 32 and 33 herein, the following lawsuits may not be joined to others in the same proceedings, even by counter-claim: dismissal actions, termination of an employment contract further to Articles 50 and 52 of the Revised Text of the Workers' Statute (RCL 1995, 1997), proceedings related to elections, challenges to CBAs, challenges to trade union regulations, claims related to trade union rights and other basic human rights.

The foregoing shall be notwithstanding the possibility of bringing a claim, in said proceedings, for damages derived from discriminatory treatment or a breach of basic human rights, pursuant to Article 180 and 181 of this Act.

3. Claims in Social Security matters may not be mutually joined, if they share the same object of request.

Article 28.[Actions unduly joined]

1. If unduly joined actions are brought, the Judge or Tribunal shall summon the plaintiff to remedy the defect within a term of four days, choosing the action it wishes to maintain. Otherwise, the claim shall be shelved and the resolution notified.

2. Nevertheless, in the case of a dismissal claim which is unduly joined to another action, and even if the plaintiff does not exercise its option, the dismissal proceedings shall continue and the other joined action shall be deemed as not made; the plaintiff shall be advised o its right to separately exercise said action.

Section 2. Joinder of proceedings

Article 29.[In the same Court]

If several claims against the same defendant are processed before the same Court or Tribunal, and identical actions are brought in each, a joinder of proceedings may be agreed *ex officio* or at the party's request.

Article 30.[Various Courts within the same jurisdiction]

In the foregoing case, if the claims are to be examined by two or more Industrial Courts within the same jurisdiction, all claims may be joined, *ex officio* or at the party's request. This request must be made before the Judge examining the claim that first entered the Registry.

Article 31.[*Ex officio* proceedings]

Individual claims in *ex officio* proceedings brought as a result of a notification from the Labour Authority, governed in Article 146 below, shall be joined, further to the foregoing rules, as long as they share the same parties and object of request in relation to the *ex officio* claim, and even if they are to be examined before various Courts of the same jurisdiction.

Article 32.[Automatic joinders]

Whenever a worker brings a claim for any of the reasons foreseen in Article 50 of the Revised Text of the Workers' Statute (RCL 1995, 997) and in the event of dismissal, any claim that is subsequently brought shall be joined to the previous one *ex officio* or at the request of any party; all the issues raised must be discussed in a single lawsuit. To this effect, the worker must state in the second claim that the initial proceedings are outstanding and the Court in charge of examining the matter.

Section 3. *Joinder of appeals*

Article 33.[Requirements]

The joinder of outstanding remedies may be agreed *ex officio* or at the party's request, in Industrial Chambers of High Courts of Justice and of the Supreme Court, if they share the same object and some of the parties, in any case after hearing all the parties involved and the Public Prosecutors in the case of motions to vacate.

Section 4. ***Common provisions***

Article 34.[Moment of request of the joinder]

1. The joinder of actions and proceedings must be made and agreed before conciliation acts and rulings, as the case may be, unless a counter-claim is proposed.

2. The joinder of appeals may be agreed at any time prior to the date for voting, ruling and hearing, as the case may be.

3. Once the joinder of proceedings is agreed, it may be cancelled with respect to one or more proceedings if there are reasons to justify their separate processing.

Article 35.[Effects of a joinder]

The joinder of actions, proceedings and appeals, as the case may be, shall lead to a joint discussion and a resolution issued in a single ruling regarding all the matters raised.

CHAPTER II Joinder of enforcement actions

Article 36.[General rule]

1. In the event of enforcements of judgments and other enforcement titles against the same debtor and against the same body, a joinder may be established *ex officio* or at the party's request, in the terms established in this Act.

2. The same rule shall apply to enforcement proceedings brought against the same debtor and against various Industrial Courts, in the same or a different jurisdiction.

Article 37.[Delivery of a monetary amount]

1. If actions are brought to obtain the delivery of a monetary amount, and there are signs to indicate that the debtor(s)'s assets may be insufficient to cover all the credits enforced, the collection proceedings shall be joined, *ex officio* or at the party's request, if examined before the same Court, or at the party's request, if different Courts are involved.

2. In all other cases, the court may agree on a joinder, *ex officio* or at the party's request, as the case may be, further to principles of procedural simplicity and connection between the various obligations to be enforced.

Article. 38.[Processing]

1. The joinder shall be agreed, as the case may be, by the court that previously initiated enforcement proceedings. Said body, in the terms established in this Act, shall also be in charge of adopting as many steps are necessary to execute the joined enforcements.

2. If the enforcements to be joined are processed before judicial bodies in various jurisdictions, and the enforcement previously initiated does not include most of the workers and credits affected, nor are most of the assets of the common debtor previously attached, the joinder shall be ordered, as the case may be, by the court that previously attached all or most of said assets.

Article 39.[Procedure]

1. The joinder action may be brought by or before the court that is competent to order a joinder of enforcement proceedings, in the terms indicated in the foregoing article, *ex officio* or at the request of any party.

2. If the joinder is deemed applicable, the court shall issue an order after hearing the parties, requesting that the corresponding judicial bodies forward the enforcement proceedings to be joined.

3. If the summoned Judge is in acceptance with the request, he/she shall issue a favourable order agreeing to forward the proceedings.

4. In the event of the mandatory joinder established in Article 37.1 of this Act, if the Judge entrusted with the order of the joinder deems it inapplicable, or if the summoned Judge does not agree with the joinder, he/she shall issue the corresponding order and shall thereafter forward a sufficient report of the steps taken to the Industrial Chamber of the immediately superior common Court including, in any case, a report of all the steps taken in the joinder proceedings; the other affected Judge shall be thereby informed in order to do whatever necessary and to forward the corresponding report, if he/she has not yet intervened. The Chamber shall resolve on

whether or not the joinder is applicable and shall designate the competent Judge to examine the enforcement proceedings.

Article 40.[Suspension of the processing of enforcement proceedings]

The joinder proceedings shall not suspend the processing of the collection proceedings affected, except for the steps related to the payment to the collecting parties of the amounts obtained after the joinder was initiated before the court.

Article 41.[Terms and preferential payment]

1. A joinder may be initiated or agreed insofar as the obligation being enforced is not fulfilled or, as the case may be, until the enforced party is declared insolvent.

2. A joinder shall not affect the legal right to which the various creditors may be entitled to receive preferential payment of their credits.

TITLE IV Procedural acts

CHAPTER I Procedural steps

Article 42.[Authorisations]

Court measures must be authorised by the Secretary or by the Official of the Administration of Justice that is appointed by the former, or by whoever acts as his/her legal replacement.

Article 43.[Schedule of measures]

1. Court measures must be executed in business days and hours.

2. Measures shall be carried out within the period or term established. Thereafter, the procedure shall be accordingly processed *ex officio*.

3. Except for the terms indicated for the issue of a court decision, all terms and periods shall be deemed mandatory and non-extendable, and may only be suspended and re-opened in those cases exhaustively provided by law.

4. All days in August shall be non-business days, except for procedural forms of dismissal, termination of an employment contract under Articles 50 and 52 of the Revised Text of the Workers' Statute (RCL 1995, 997), holidays, elections, collective dismissals, challenges to CBAs, protection of trade union rights and other basic human rights.

The month of August will not be treated as a non-business period for those steps directly aimed at ensuring the effectiveness of rights or claims or which, if not adopted, could cause a damage that is difficult to remedy.

5. The Judge or Tribunal may order the applicability of non-business days and hours to carry out measures, if it were not possible to carry them out in business periods, or if these were necessary to ensure the effectiveness of a court resolution. Once a step is taken in a business period, it may continue until it is completed without having to render non-business days applicable.

6. For the purposes of the term established for the filing of appeals, if an official holiday of a local or autonomous nature were to fall during the proceedings, it shall be officially recorded.

Article 44.[Places where a writ may be filed]

The parties must file all their writs and documents before the Registries of the Industrial Courts and Chambers.

Article 45.[Filing before a Court On Duty]

1. The filing of writs or documents on the last day of a term may be carried out before the Court On Duty at the address of the corresponding Industrial Court or Chamber, if filed outside the opening hours of the Registry that records entries into said bodies. To this effect, the time must be indicated in the relevant writ of presentation before the Court On Duty, and the interested party must make the corresponding record before the Industrial Court or Chamber on the following business days, through the most rapid means available.

2. On those islands where there are no Industrial Courts, the presentation of writs and documents may be made, in the same conditions described above, before any of the island Courts that are empowered to act as a Court On Duty.

Article 46.[Receipt of presentation, filing and proposed resolution]

1. The Secretary, or whoever is carrying out his/her duties, shall issue a certificate to record the date and time the writs and documents were filed and, in any case, shall provide the interested party with said receipt. This receipt may consist of an official statement issued on a copy filed by the party for this purpose.

2. On the same day or on the next business day, the Secretary or whoever is carrying out hi/her duties shall inform the Judge or Chairman or, if applicable, shall issue a certificate for the filing or proposed resolution of the matter.

Article 47.[Access by the interested party to the court records]

1. The court records shall remain at the Industrial Courts and Chambers under the Secretary's custody, and may be examined by any interested party who ascertains a legitimate interest. If so requested by any such party, affidavits, certifications or non-official copies shall be provided.

2. Any interested party may access the Judgments Register referred to in Article 213 of the Civil Procedure Act (RCL 2000, 34, 962).

Article 48.[Delivery deadlines and return of court records]

1. Court records shall only be delivered when expressly ordered by law and for the time indicated. This period shall begin to run from the date of notification to the interested party of the availability of the court records.

2. If the court records are not returned upon expiration of the term granted for examination purposes, and unless delivery were recorded in an affidavit, the person in charge shall be imposed a fine of between 2,000-20,000 pesetas/day. If the records are not returned within two days, the Secretary shall proceed to collect them; if the records are not immediately returned, the Secretary shall notify the Judge in order to take the necessary steps derived from a delay in return.

CHAPTER II Resolutions and filing measures

Article 49.[Types of resolutions]

1. Industrials Courts and Tribunals shall adopt their decisions through orders, rulings and judgments, in the cases and with the formalities foreseen by law.

2. They will also issue oral resolutions during the trial or in other acts conducted before the court, making the corresponding statement in the trial record.

Article 50.[Ways in which to issue a resolution]

1. At the end of the process, the Judge may issue a decision out loud, which shall be consigned in the trial record with the content and requirements established in the Civil Procedure Act (RCL 2000, 34, 962). The Judge may also merely hand down a ruling, to be documented in the trial record and approved by the Court Secretary, notwithstanding a subsequent drafting of the judgment within the term and in the manner foreseen by law.

2. Judgments may not be delivered out loud in disciplinary dismissal and employment contract termination cases further to Articles 50 and 52 of the Revised Text of the Workers' Statute (RCL 1995, 997), if related to the acknowledgement or refusal of the right to obtain Social Security benefits, including unemployment benefits, collective dismissal proceedings, challenges to CBAs, challenges to the regulations of Trade Unions, and any involving the protection of trade union rights and other basic human rights.

3. The parties shall be notified or any judgements that are verbally issued by reading and signing the trial record. If, after being informed of the ruling, the parties decide not to lodge an appeal, the Judge, in the same act, shall declare the judgment as final.

4. If any of the parties does not appear in the proceedings, it shall be adequately notified.

5. In the same cases and conditions established in this article, the Judge may verbally hand down rulings at the end of the hearing held in any plea that is raised during the lawsuit.

Article 51.[Resolution proposed by the Secretary]

1. The Secretary must propose a resolution to the Judge or Industrial Chamber, in the form or an order or ruling. Excluded from the foregoing are those orders issued to review filing measures and rulings deciding incidental issues on appeals or matters giving rise to the conflict, as well as those that restrict rights.

2. Proposals must be adopted within the time and in the form foreseen by law for the relevant resolution. They shall be signed by the proposing Secretary and the Judge or Chamber may accept them, indicating "accepted", or may deliver the applicable decision.

Article 52.[Filing measures]

1. The Secretaries shall be in charge of issuing filing measures, in order to process a lawsuit as foreseen by law and to formally channel the proceedings through its various stages.

2. The form adopted shall merely indicate what is being provided, including the Secretary's name, date and signature.

3. Filing measures may be reviewed *ex officio* by the Judge or Magistrate issuing the leading opinion in the Industrial Chamber.

4. The parties may apply for a review of the filing measures the day after notification thereof, in a reasoned writ addressed to the Judge or Magistrate issuing a the leading opinion, who shall issue a resolution outright, unless it were deemed necessary to forward the matter to the other side in order to make the necessary allegations within a term of two days (or common two-day terms, in the case of various parties). In this case, the deciding order shall be issued at the end of a hearing.

CHAPTER III *Notification acts*

Article 53.[Basic content]

1. Notification acts shall be made in such a way as to ensure a right to one's defence and the principles of equal treatment and the right to be heard. They shall be executed by the fastest and most effective means that allow an adequate record and basic circumstances thereof.

2. In the first writ or appearance before the court, the parties shall indicate an address for notification purposes.

3. If the parties appear with professional representation or counsel, the latter's address shall be the one indicated for notification purposes, unless otherwise provided.

Article 54.[Notifications]

1. All orders, rulings, judgments and filing measures adopted by the Secretary shall be notified on the same date they are executed or published, as the case may be, to all those who are a party to the proceedings. If the foregoing is not feasible, notification shall be provided on the next business day.

2. The foregoing decisions shall also be notified, if necessary, to those persons and Entities referred to, affected by or holding a legitimate interest in the matter being discussed.

3. If, during the lawsuit, measures need to be adopted in order to guarantee the rights to which the parties may be entitled or to ensure the effectiveness of a court resolution, and an immediately notification to the affected party of the procedural steps or of the interim, precautionary or enforcement measure could hinder its effectiveness, the court, in a reasoned manner, may decide to delay the notification for the indispensable time required to achieve said effectiveness.

Article 55.[Issuer and notification address]

Notices, notifications, summons and requests shall be conducted through the Secretary or by whoever is acting on his/her behalf, at the premises of the Court or Tribunal or at the common offices, if the interested parties appear at said address on their own initiative and, otherwise, at the address indicated for this purpose.

Article 56.[Formal requirements for notification by mail]

1. Notices, notifications and summons conducted outside the premises of the Court or Tribunal, regardless of the addressee, must be delivered by registered mail with

acknowledgement of receipt. In the court records, the Secretary shall attest the content of the envelope sent and shall include the acknowledgement of receipt.

2. The outside of the envelope shall include the warnings contained in Article 57.3 of this Act, addressed to the non-addressee recipient.

3. The acknowledgement of receipt shall record the delivery date and shall be signed by the mailman and recipient. If the recipient is not the addressee, his/her name, identity document, address and relationship with the addressee shall be recorded.

4. Notifications may be conducted by telegram or by any other suitable means of communication or text transfer, if the interested parties provide the necessary data. The necessary measures shall be taken to ensure that the notified act is received, and notification shall be confirmed in the court records.

Article 57.[Notification by means of a certificate]

1. If notifications are unable to be conducted in the manner indicated, a certificate shall be delivered to the addressee; if unavailable, it shall be delivered to the closest relative or family member or employee, over sixteen years of age, who is present at the address and, otherwise, to the closest neighbour or to the doorman/concierge of the building.

2. The certificate may be delivered to any of the aforementioned individuals, without having to be present at the interested party's address, if they can guarantee that the no0tification will be effectively made based on their relationship with the addressee.

3. The recipient will be informed: that the public duty entrusted must be fulfilled; that a refusal of acceptance or not making delivery as soon as possible may be sanctioned with a fine of between 2,000-20,000 pesetas; that the court should be advised of the impossibility of delivering the notification to the interested party; and that he/she is entitled to reimbursement of any expenses incurred.

Article 58.[Certificate content]

1. Certificates, which shall include a literal copy of the agreement, must contain the following:

a) The Court or Tribunal that issued the agreement, the date and subject matter thereof.

b) The name of the person to whom it is addressed.

c) The certificate's issue date and Secretary's signature.

2. Certificates sent to summon the parties to provide their confession in court, certificates summoning witnesses, experts and advisors, in addition to the requirements established in the foregoing section, must contain the following:

a) The object of the summons.

b) The place, date and time on which the summoned party should appear.

c) The warning indicating that non-hearing shall entail the corresponding damage in law. The certificate shall not include a copy of the resolution that agreed to the summons.

3. In order to record proceedings of notice, notification, summons and request, the court records shall include a copy of the certificate, which shall contain the following:

a) Date of the proceedings.

b) Signature of the person to whom the certificate was delivered and, if not the interested party, the name, identity document, address and relationship with the addressee.

c) Signature of the Secretary, stating, as the case may be, whether the notified party wished or was unable to sign.

Article 59.[Notification through an edict]

If notification is attempted through reasonable means and there is no record of the interested party's address, or his/her whereabouts are unknown, this shall be recorded in a certificate and the Court or Tribunal shall order that the notification, notice or summons be made through an edict. A sufficient part of the certificate shall be inserted in the relevant "Official Gazette", with the warning that all subsequent notifications shall be made in the law courts, unless the notification requires the form or a ruling or judgment or involves a summons.

Article 60.[Notification to special plaintiffs]

1. Notifications, notices and summons shall not accept or consign any reply whatsoever from the interested party, unless this were instructed in the resolution. A summons shall accept the reply given by the summoned party, and shall be succinctly consigned in the certificate.

2. Whenever these steps are to be taken with a legal entity, they shall be conducted, as the case may be, at the Representative Offices, branch offices, or agencies established in the city where the Court or Tribunal examining the matter is located, even if the managers thereof are not empowered to appear in a lawsuit.

3. Notifications to the Treasury Counsel, including Legal Counsel of the Social Security Administration, must be sent to their official office.

With respect to Autonomous Communities, these notifications shall be deemed as made to the parties in charge of passing their individual laws.

4. In the case of works councils, the aforementioned notifications shall be deemed as made to their chairman or secretary and, otherwise, to any of their members.

5. If the notice or summons needs to be made through a letter rogatory, the relevant certificate shall be attached.

Article 61.[Nullity]

Any notifications, notices and summons not carried out further to the provisions of this Chapter shall be null and void. Nevertheless, if the interested party is deemed as notified, the measure taken shall be effective from that moment onwards.

Article 62.[Letters rogatory, orders and reminders]

1. The Secretary shall issue judicial instructions, letters rogatory, orders and reminders instructing the execution of measures within its scope of competence.

2. In any case, the Judge or the Chamber may instruct the Secretary to carry out these judicial cooperation acts.

TITLE V Avoidance of a lawsuit

CHAPTER I *Prior conciliation*

Article 63.[Prior requirement]

A prior requirement for the processing of the lawsuit shall be an attempted conciliation before the relevant administrative service or before the body acting on its behalf, which may be established by virtue or inter-professional agreements or the CBAs referred to in Article 83 of the Revised Text of the Workers' Statute (RCL 1995, 997).

Article 64.[Exceptions]

1. The foregoing requirement shall not apply to proceedings that require a prior claim before the administrative jurisdiction, those that are related to the Social Security, enjoyment of holidays and election matters, those initiated *ex officio*, challenges to CBAs, challenges to the regulations or Trade Unions or proposed amendments thereof, and those involving the protection of trade union rights.

2. Likewise, the following proceedings are excluded:

a) Proceedings in which the defendants include both the State or other public entity and individuals, as long as the petition needs to be subject to a prior claim and the litigious matter could be resolved at this stage.

b) In cases where, once the lawsuit is initiated, it is necessary to bring the claim against other parties than the initial defendants.

Article 65.[Suspension of statutes of limitation]

1. The filing of an application for conciliation shall suspend any statute of limitation and shall interrupt prescription deadlines. Expiration calculations shall recommence on the day after conciliation is attempted or once fifteen days elapse since it was filed and not held.

2. In any case, once thirty days elapse without the conciliation act being held, the proceedings shall be deemed as ended and the stage completed.

3. Expiration deadlines shall also be suspended and prescription deadlines shall be interrupted if an arbitration arrangement is executed, by virtue of inter-professional agreements and the CBAs referred to in Article 83 of the Revised Text of the Workers' Statute (RCL 1995, 997). In these cases, expiration calculations shall recommence the day after the arbitration award becomes final; if a court appeal is lodged to annul the award, recommencement shall take place as of the day following the final decision issued.

Article 66.[Duty of the litigants]

1. Litigants must attend the conciliation act.

2. If the applicant does not appear and does not allege just cause, whenever the parties are duly summoned for the conciliation act, the application shall be deemed as not made and all proceedings shall be shelved.

3. If the other party does not appear, the conciliation shall be deemed as attempted without effect, and the Court or Tribunal shall indicate any possible recklessness or bad faith if the non-appearance were unjustified. The fine indicated in Article 97.3

below shall be imposed if the judgment that is eventually delivered basically coincides with the petition made in the conciliation application.

Article 67.[Challenge of the conciliation agreement]

1. The conciliation agreement may be challenged by the parties and by whoever may be detrimentally affected, before the Court or Tribunal that is competent to examine the subject matter of the conciliation, by bringing an action for nullity founded on the reasons for contractual invalidation.

2. This action shall expire thirty days after the date when the agreement was adopted. For potentially injured parties, the term shall begin to run from the moment they became aware of the agreement.

Article 68.[Enforceability of the agreement]

Whatever is agreed in conciliation proceedings shall be enforceable between the intervening parties without the need for ratification before the Judge or Tribunals. The proceedings used to enforce judgments may be used in this case.

CHAPTER II Filing of a claim before initiating court proceedings

Article 69.[Administrative claim]

1. In order to bring a claim against the State, Autonomous Communities, Local Entities or their dependent Autonomous Bodies, a prior requirement shall be to have filed a claim before the administrative jurisdiction in the manner foreseen by law.

2. If the claim is rejected or one month elapses without the resolution being notified, the interested party may bring a claim before the competent Court or Chamber, providing a copy of the unfavourable resolution or a document verifying that the claim was presented, a copy of all of which shall be provided to the defendant entity.

3. The claim shall not be effective if the resolution were unfavourable and the interested party does not bring a claim before the Court within two months following the notification or after expiration of the term in which to deem the claim are rejected, except for actions derived from dismissal, which shall be subject to a twenty-day term for the bringing of a claim.

Article 70.[Excluded cases]

The foregoing requirement shall not apply to proceedings regarding the enjoyment of holidays and elections, proceedings brought *ex officio*, those related to collective dismissals, challenges to CBAs, challenges or amendments to Trade Union regulations, those related to the protection of trade union rights, and claims against the Salary Guarantee Fund, further to the provisions foreseen in Article 33 of the Revised Text of the Workers' Statute (RCL 1995, 997).

Article 71.[Claims before the Social Security Treasury]

1. In order to bring a claim in Social Security matters, the interested parties must file a prior claim before the applicable Management Entity or General Treasury of the Social Security.

2. The prior claim must be filed before the body that issued the resolution within a term of thirty days following the date the notification is expressly made, or following

the date on which administrative silence is deemed as existi9ng further to the regulations applicable to the proceedings in question.

If the express or implicit resolution was issued by a collaborating entity, the prior claim shall be filed, within the same term, before the corresponding body of the Management Entity or common Service, if competent.

3. If the corresponding Entity is obliged to proceed *ex officio* in an initial recognition or in he modification of an act or right in Social Security matters, if no agreement or resolution is reached, the interested party may request a ruling and its request shall have the force of a prior claim.

4. After a prior claim is brought in any of the situations indicated in this article, the Entity shall expressly reply thereto within a term of forty-five days. Otherwise, the claim shall be deemed as refused according to the principle of administrative silence.

5. The claim must be brought within a term of thirty days following the date of notification of the refusal to proceed with the prior claim, or as of the date it is deemed as refused according to the principle of administrative silence.

6. The management entities and the Social Security General Treasury shall issue a receipt of presentation or shall duly sign and date the copies of any claims filed further to the provisions herein. This receipt or sealed copy must necessarily be attached to the claim.

Article 72.[Impossibility of making changes in previous steps]

1. During the proceedings, the parties may not make substantial changes as to time, amounts or items in the steps taken in the prior claim and in the reply thereto.

2. A defendant who has not replied to the prior claim may not bring a challenge based on facts other than those alleged in the administrative proceedings, if any, unless these took place subsequently in time.

Article 73.[Interruption of prescription terms and statutes of limitation]

A prior claim shall interrupt all prescription terms and shall suspend any statutes of limitation; the latter shall recommence on the day after notification of the resolution or expiration of the term in which the claim is deemed as rejected.

TITLE VI

Principles governing the proceedings and procedural duties

Article 74.[Listing]

1. The Judges and Tribunals of the industrial jurisdiction shall interpret and apply the rules governing ordinary labour proceedings according to the principles of judicial intervention, the right to make verbal allegations, procedural simplicity and rapid processing before the courts.

2. The principles indicated in the foregoing section shall direct the interpretation and application of the procedural rules inherent to the procedural forms governed by this Act.

Article 75.[Petitions, pleas and exceptions]

1. The judicial bodies shall reject *ex officio*, in a justified resolution, any petitions, pleas and exceptions brought with the purpose of delaying the proceedings or that entail the abuse of law. Furthermore, they shall remedy any act which, pursuant to legal provisions, has a purpose that runs contrary to that foreseen in the Spanish Constitution (RCL 1978, 2836) and in the laws governing a balance in procedural matters, protection by the courts and enforceability of resolutions.

2. Whoever is not a party to the lawsuit must fulfil the obligations imposed by the Judges and Tribunals, aimed at safeguarding the rights to which the parties may be entitled and to ensure the enforceability of court resolutions.

3. If an economically ascertainable damage is caused, the damaged party may bring a claim for the relevant indemnification before the Court or Tribunal that was examining or had examined the main issue.

BOOK II
Ordinary proceedings and procedural forms

TITLE I
Ordinary proceedings

CHAPTER I **Preparatory acts and precautionary measures**

Section 1. ***Preparatory acts***

Article 76.[Examination of witnesses]

1. Anybody intending to bring a claim may request the court that the party against whom the claim will be brought bear witness as to any fact regarding the latter's identity which is essential in order to proceed with the lawsuit.

2. Furthermore, whoever intends to bring a claim or believes will be the object of a claim may previously request an examination of witnesses whenever, due to witness seniority, imminent life danger, upcoming transfer to a place with which communication is impossible or difficult, or any other serious and justified reason, the rights of said party may potentially be hindered.

3. No appeal whatsoever may be lodged against the court resolution refusing to carry out these steps, notwithstanding any appeal that may eventually be brought against the final ruling.

Article 77.[Examination of records and accounts]

1. In all those cases where an examination of records and accounts, or the consultation of any other document, is indispensable for the grounds of a claim, the potential plaintiff may request that the court provide said documents. In the case of accounting documents, the potential plaintiff may appear together with an expert in the matter, who shall be subject to any professional rights in relation to the duty of confidentiality of accounts. Any legal costs incurred by the expert's advice shall be borne by the party who requested the service.

2. On the second day, the court shall issue the corresponding ruling and, if applicable, shall adopt the necessary steps so that the examination is carried out without the documentation leaving the hands of its owner.

Section 2. ***Precautionary measures***

Article 78.[Early evidentiary steps]

If the parties request early evidentiary steps that cannot be carried out in the lawsuit itself, or which entail serious difficulties at the time, the Judge or Tribunal shall decide as necessary in order for the evidence to be practised in the terms foreseen by the rules governing the applicable evidence. No appeal whatsoever may be lodged against an unfavourable resolution, notwithstanding any that may be eventually lodged against the judgment for this reason.

Article 79.[Lien of goods]

1. The court, *ex officio* or at the request of an interested party or the Salary Guarantee Fund, in those cases where it may be liable, may decree a lien over the defendant's goods in a sufficient amount to cover the object of the claim and the expected collection costs, if the defendant's conduct suggests that it wishes to incur insolvency or to prevent the judgment from being enforced.

2. The court may request that the applicant of the lien, after holding a hearing, provide documents, sworn statements or any other evidence that justifies the situation claimed. If liability may arise for the Salary Guarantee Fund, the Fund must be summoned for the purposes of attaching the goods.

3. An application for a lien may be filed at any time during the lawsuit before the final ruling, without suspending the course of the proceedings.

CHAPTER II *Ordinary proceedings*

Section 1. ***Claim***

Article 80.[Requirements]

1. All claims shall be filed in writing and shall meet the following general requirements:

a) The identity of the body to which the claim is being presented.

b) The identity of the plaintiff, indicating his/her Spanish Identity Card number, and any other interested parties to be heard in the proceedings, including their address, the full name of all individuals and the company name of any legal entities. If the claim is brought against a group without legal status, the full name and address of the parties that appear as the sponsors, directors or administrators of the group must be provided.

c) A clear and succinct listing of the fact on which the claim is based, and any others which, according to material law, are indispensable in order to resolve the matters raised. In no event may facts be claimed different from those alleged in the conciliation proceedings or prior administrative claim, unless they took place thereafter.

d) The corresponding petition, in terms adjusted to the content of the claim brought.

e) If the plaintiff is acting on its own, it shall designate an address within the city where the Court or Tribunal is located, which shall be used in any subsequent steps.

f) Date and signature.

2. The plaintiff shall provide as many copies as there are defendants and other interested parties, of the claim and attached documents, and shall include a copy for the Public Prosecutor if its intervention is necessary by law.

Article 81.[Remedy of defects]

1. The court shall notify the party of any defects, omissions or inaccuracies incurred when drafting the claim, so that it may remedy them within a term of four days, subject to the warning that, if not remedied, the proceedings will be shelved.

2. The Judge shall provisionally accept all claims, even if a certificate of the prior conciliation act is not provided. Nevertheless, he/she shall warn the plaintiff that evidence must be provided of said act, or of the attempt to hold the act, within a term of fifteen days, as of the day following receipt of the notification, subject to the warning that, otherwise, the claim shall be shelved with no further step being taken.

Article 82. [Deadlines]

1. If the claim is accepted, the Judge or Tribunal, within ten days following the date it is filed, shall indicate the day and time when the conciliation and trial shall be held; at least four days must elapse between the summons and the effective date of said acts.

2. The conciliation and trial acts shall take place in a single hearing; the summons to this effect must be made in due form, providing the defendants, the interested parties and the Public Prosecutor, as the case may be, with a copy of the claim and other documents. All summons shall indicate that conciliation and trial acts may not be suspended due to non-appearance on the part of the defendant, and that all the litigants must intervene in the lawsuit with all the means of evidence they deem applicable.

3. A longer term than the one established in section 1 above must apply:

a) When the summons is addressed to a legal entity, public or private, or to a group without legal status, in which case it must be made fifteen days prior to the date scheduled for the conciliation and trial acts.

b) When representation and defence in court is assigned to Treasury Counsel, in which case a term of twenty-two days shall be granted in order to make a consultation to the General Directorate of the State Legal Department. The trial shall be scheduled in such a way as to take place after the expiration of said term.

Section 2. ***Conciliation and trial***

Article 83.[Suspension of conciliation and trial acts]

1. Conciliation and trial acts may only be suspended on a one-off basis at the request of both parties or for justified reasons, accredited before a court. Said acts shall be rescheduled within the next ten days following the suspension. Exceptionally and in serious circumstances, adequately proven, a second suspension may be agreed.

2. If the plaintiff, summoned in due form, does not appear or allege a just cause for the suspension of the trial, he/she shall be deemed to have abandoned the claim.

3. An unjustified non-appearance of the defendant shall not prevent the trial from being held, which shall continue without having to declare contempt of court.

Article 84.[Conciliation and settlement]

1. Once the court has convened a public hearing, it shall try to reach an agreement, advising the parties of the rights and obligations inherent thereto, without prejudging the content of any future ruling. If the court considers that the agreement is seriously detrimental to any party, or amounts to a fraud or abuse of law, it shall not accept the agreement.

2. A settlement may be approved at any time before the final ruling is issued.

3. A certificate shall be issued of the conciliation act.

4. The agreement shall be made effective through proceedings for the enforcement of judgments.

5. An action to challenge the validity of the settlement may be brought before the same Court or Tribunal, following the steps and with the remedies foreseen in this Act. The action shall expire fifteen days after it is brought.

Article 85.[Court proceedings]

1. If no settlement is reached in conciliation proceedings, the trial stage shall be initiated next, and the Secretary shall record all measures already taken. Thereafter, the plaintiff shall ratify or extend its claim, without in any event making a substantial change therein.

2. The defendant shall reply, specifically affirming or negating the facts of the claim, and alleging as many exceptions may be applicable. In no event may it bring a counter-claim., unless this had been announced in the conciliation prior to the lawsuit or in the reply to the prior claim, and the facts on which it is based and the exact petition made were substantially described. If a counter-claim is brought, the stage shall begin to issue a reply thereto in the terms established in the claim. The same reply stage shall begin for procedural exceptions, if alleged.

3. The parties shall make verbal statements whenever the Judge or Tribunal deems it necessary.

4. Furthermore, in this act, the parties may allege whatever they deem appropriate for the purposes of the provisions of Article 189.1.b) below, providing the necessary reasoning on which to base their allegations at the necessary point in the proceedings. It will not be necessary to provide evidence on this specific matter if the fact that the lawsuit affects many workers or beneficiaries is apparent in itself.

Article 86.[Preliminary criminal stage]

1. In no case will the proceedings be suspended if a criminal case is pursued based on the facts under dispute.

2. In the event that any of the parties were to allege the falsehood of a document that could have a decisive influence on the lawsuit, because the resolution of the criminal cause is essential to issue a ruling or directly conditions the content thereof, the trial shall continue until the end and all later measures shall be suspended; the court shall grant a term of eight days to the interested party in which to provide a document accrediting the filing of the criminal complaint. The suspension shall last until a judgment is delivered or discontinuance of the criminal cause is declared, a fact that shall be notified to the Judge or Tribunal by any of the parties.

3. If any other preliminary criminal matter were to give rise to an acquittal based on a non-existing fact or non-participation of the subject, an appeal for judicial review

further to the Civil Procedure Act may be lodged against the ruling issued by the Industrial Judge or Chamber.

Article 87.[Evidence stage]

1. In relation to any disputed facts, all evidence that is presented and practised in the act shall be accepted. Furthermore, any evidence entailing the transfer of the Judge or Tribunal outside the premises of the hearing shall also be accepted, if deemed essential, in which case the trial shall be suspended for the time that is strictly necessary.

2. The relevance of the evidence and of the questions made by the parties shall be decided upon by the Judge or Tribunal; if the interested party protests against any non-acceptance, the court records shall indicate the question or evidence requested, the unfavourable resolution, the reasoned grounds for the refusal and the protest, for the purposes of any appeal against the ruling. If an accepted piece of evidence is being practised and the party presenting it were to waive to the same, the court, without further appeal, may order that the evidence continue.

3. The court may make as many questions it deems necessary to clarify the facts, both to the parties and to Experts and witnesses.

All litigants and counsel for the defence shall be likewise entitled.

4. Once the evidence stage is executed, the parties or their counsel for the defence shall present their conclusions verbally, in a specific and accurate manner, determining the outcome of the evidence stage, in a fluid manner and without changing the basic issues and requests invoked in the claim or counter-claim (if any), the amounts that are being requested in the main or subsidiary ruling, for any item; or, as the case may be, the specific and accurate request for the measures with which the petition may be satisfied. If the parties do not carry out the foregoing at this stage, the Judge or Tribunal shall request that they do so, and in no event may this be deferred until the final ruling.

5. If the court deems that it has insufficient information on issues of any kind that are the object of dispute, it shall grant both parties the time it considers appropriate to provide information or explanations on further issues.

Article 88.[Judgment]

1. At the end of the trial and within the term provided to deliver judgment, the Judge or Tribunal may agree to carry out the evidence it deems necessary, for the relevant purposes, with the parties' intervention. The same order shall establish the term in which the evidence will be provided, during which the outcome of the measures shall be notified to the parties so that they may make the corresponding allegations in writing regarding its scope or significance. If this term expires without evidence being provided, the court shall issue a new order, establishing a further term in which to enforce the agreement and issuing the necessary notifications. If evidence is unable to be provided once again during this time, the Judge or Tribunal, after hearing the parties, shall agree that the proceedings be definitively finalised and ready to deliver judgment.

2. If the measures involve a statement in court or a document to be requested from one of the parties, and the party does not appear or present the document without justified cause, within the term established, the allegations made by the other side may be deemed as proven in relation to the evidence agreed upon.

Article 89.[Content of the certificate]

1. During the trial stage, the corresponding certificate shall be issued, recording the following:

a) Place, date, Judge or Tribunal presiding the act, intervening parties, representatives and counsel, and a brief reference to the conciliation act.

b) A brief summary of the parties' allegations, means of evidence proposed, an express statement of their relevance/irrelevance, reasons for refusal and protest, if applicable.

c) Regarding the evidence accepted and executed:

1. A sufficient summary of confessions and witness statements.

2. A list and background details of any documents presented, or sufficient data for identification purposes, if a list is not feasible due to the volume.

3. A list of the incidents raised during the lawsuit in relation to documentary evidence.

4. A sufficient summary or expert reports, including the resolution of the Judge or Tribunal regarding the challenges proposed by the experts.

5. A summary of the advisors' statements, if their report is not issued in writing and included in the court records.

d) Conclusions and specific requests made by the parties; if the request is to impose the payment of an amount, the certificate shall indicate the corresponding figures.

e) A statement made by the Judge or Tribunal winding up the proceedings, ordering that they be subject to a final ruling.

2. The Judge or Tribunal shall resolve, with no further appeal possible, any comment made on the content of the certificate, signing it thereafter together with the parties or their representatives/lawyers and the Experts, indicating if any signature is missing due to impossibility, unwillingness or absence. Finally, the Secretary shall sign and attest the certificate.

3. The trial record of the lawsuit may also be distributed through mechanical means of reproduction, in which case the aforementioned requirements shall apply.

4. A copy of the trial record of the lawsuit shall be delivered to whoever acted as a party to the proceedings, if so requested.

Section 3. ***Evidence***

Article 90.[General characteristics]

1. The parties may use as many means of evidence are regulated by law; mechanical means of reproduction of words, image and sound shall be accepted as such, unless they were directly or indirectly obtained through procedures that entailed a breach of basic human rights or public freedoms.

2. The may also request, at least three days before the trial date, those pieces of evidence which, if executed in the trial, would require a summons or notice.

Article 91.[Confessions]

1. The interrogatory for evidence provided in confession shall be verbally proposed and no lists shall be admitted.

2. If the party making the deposition does not appear without a just cause at first notice, refuses to declare or continued not to reply yes or no, despite the warning received, he/she may be deemed in the final ruling as having made a confession.

3. Depositions by private legal entities shall be made by whoever acts as their legal representative and is empowered to answer interrogatories.

4. If the confession does not refer to personal facts, the interrogatory may be answered by a third party who is personally aware of the facts, if the party so requests and accepts responsibility for his/her statement.

Article 92.[Witnesses]

1. Evidence provided through witness declarations may not be subject to lists of questions and re-questions. If there is an excessive number of witnesses and, in the court's opinion, their declarations could unnecessarily reiterate a statement over facts sufficiently ascertained, the court may limit the number at its own discretion.

2. Witnesses may not be removed and, only at the conclusions stage, may the parties make the comments they deem appropriate in relation to their personal circumstances and the accuracy of their statements.

Article 93.[Experts]

1. When executing expert evidence, general rules regarding the drawing by lots of Experts shall not apply.

2. The court, *ex officio* or at a party's request, may demand that a forensic surgeon intervene whenever his/her report is necessary.

Article 94.[Documents]

1. Any documentary evidence presented shall be forwarded to the parties in the trial act for examination purposes.

2. Any documents belonging to the parties must be provided during the proceedings, if proposed as a means of evidence by the other side and accepted as such by the Judge or Tribunal. If the documents are not filed without justified cause, the allegations made by the other side in relation to the evidence agreed may be deemed as proved.

Article 95.[Proceedings for further discovery of evidence]

1. The Judge or Tribunal, if deemed appropriate, may hear the opinion of one or more experts in the matter subject to the lawsuit, at the time of the trial act or, thereafter, for further discovery of evidence.

2. If the lawsuit involves a dispute regarding the interpretation of a CBA, the court may hear or request a report from its Joint Committee.

3. If a potential discrimination on the grounds of sex is raised during the proceedings, the Judge or Tribunal may request the opinion of the relevant public bodies.

Article 96.[Discrimination]

In those proceedings where the plaintiff's allegations indicate the existence of evidence founded on discrimination on the grounds of sex, racial or ethnic origin, religion or beliefs, disability, age or sexual preference, the defendant must provide objective, reasonable and sufficiently proved reasons for the measures adopted and the proportionality thereof.

Section 4. ***Judgment***

Article 97.[Deadlines and content]

1. The Judge or Tribunal shall deliver a judgment within a term of five days, which shall be immediately published and notified to the parties or their representatives within the following two days.

2. Further to the background facts, the judgment shall provide a sufficient summary of what was the object of discussion during the proceedings. Furthermore, and based on the reasoning provided, it shall expressly declare the facts that it deems proved, referring to the grounds on which it bases this conclusion in the Points of Law. Finally, it shall provide sufficient grounds for the ruling handed down.

3. The judgment, on reasoned grounds, may impose on a *mala fides* litigant or on a clearly reckless litigant a monetary sanction of a maximum, at the instance stage, of one hundred thousand pesetas. In this case, if the sanctioned party is the employer, all lawyer fees shall also be borne by the same.

Article 98. [Requirements]

1. If the Judge who chaired the trial is unable to deliver judgment, this stage shall be held once again.

2. In relation to Industrial Chamber, the provisions established in the Organic Act of the Judiciary (RCL 1985, 1578 and 2635) shall apply.

Article 99. [Specification]

In judgments ordering the payment of an amount, the Judge or Tribunal must expressly specify the same and in no event may this task be postponed till the enforcement stage.

Article 100.[Notification]

At the time of notification of the judgment to the parties, it shall be indicated whether or not it is final and, if applicable, the appeals that are available, the body before which the appeal should be lodged, and the applicable deadline and requirements, including any deposits that may be necessary and how to execute the same.

Article 101.[Salary incurred during court proceedings *("salarios de tramitación")*]

If the judgment is unfavourable to the employer, it shall be obliged to pay to the plaintiff who personally intervened in the proceedings the total salary accrued during

the time the conciliation and trial acts were held before the Court or Tribunal including, as the case may be, prior conciliation proceedings before the relevant body.

TITLE II PROCEDURAL FORMS

CHAPTER I General provision

Article 102.[Supplementary regulations]

In everything not expressly foreseen under this Title, the provisions established for ordinary proceedings shall apply.

CHAPTER II Dismissals and sanctions

Section 1. Disciplinary dismissal

Article 103.[Term in which to bring a claim]

1. A worker may bring a claim against his/her dismissal within twenty business days following the dismissal date. This term shall act as a statute of limitations to all intents and purposes.

2. If a claim for dismissal were brought against a person who is mistakenly attributed employer status, and the trial eventually proves that he/she was a third party, the worker may bring a new claim against the latter, without the statute of limitations beginning to run until the time the identity of the employer is ascertained.

Article 104.[Requirements for the claim]

Claims for dismissal must contain the following information, apart from the general requirements foreseen:

a) Work place; professional category; particular characteristics, if any, of the work being executed before the dismissal; salary, time and method of payment; seniority of the dismissed party.

b) Effective date of dismissal and manner in which it took place, including the facts alleged by the employer.

c) Whether the worker holds, or held during the year prior to dismissal, status as a legal or trade union representative of the workers.

d) If the worker is a member of any trade union, whether the dismissal is being declared unfair due to it being carried out without previously hearing the trade union representatives, if any.

Article 105.[Ratification, allegations and reasoning]

1. Once the claim is ratified, as the case may be, both in the allegations and evidence stages, the defendant must indicate its position in first place at the conclusions stage. Furthermore, the defendant shall bear the burden of proving the authenticity of the facts alleged in the letter of dismissal and on which the dismissal is based.

2. In order to justify the dismissal the defendant may not present during the trial other reasons for refuting the claim than those contained in the written notification of dismissal.

Article 106. [Guarantees]

1. In the events foreseen in Article 32 above, the guarantees established for disciplinary dismissal proceedings shall be upheld in relation to the allegations, evidence and conclusions.

2. If members of the works council, staff or trade union representatives are dismissed, the defendant must provide the documents required by law in which it submits its defence.

Article 107.[Information related to the facts proved]

The following circumstances shall be indicated in the facts deemed as proved in the judgment:

a) Dismissal date.

b) Worker's salary.

c) Work place; professional category; seniority, specifying the periods during which the services were provided; particular characteristics, if any; and the work carried out by the plaintiff before the dismissal took place.

d) Whether the employee holds or held, during the year prior to dismissal, status as a staff representative, member of the works council or trade union representative.

Article 108.[Classification of dismissal]

1. In the final ruling delivered, the Judge shall classify the dismissal as fair, unfair or null and void.

The dismissal shall be classified as fair whenever the breach alleged by the employer in the writ of notification is ascertained. Otherwise, or in the event of a breach of the formal requirements established in Article 55.1 of the Revised Text of the Workers' Statute (RCL 1995, 997), the dismissal will be classified as unfair.

2. Any dismissal that is brought based on any of the events of discrimination foreseen in the Spanish Constitution or by law, or that entails an infringement of the worker's basic human rights and public freedoms, shall be declared null and void.

A dismissal shall also be null and void in the following cases:

a) Dismissal of workers during a suspension of their employment contract due to maternity leave, high-risk pregnancy, high-risk breast-feeding, illnesses derived from a pregnancy, birth or breast-feeding, adoption, fostering or paternity referred to in Article 45.1.d) of the Revised Text of the Workers' Statute, or a situation notified on such a date that the prior notice granted were to end during said period.

b) Dismissal of pregnant workers, from the beginning of the pregnancy until the suspension referred to in a) above, and of workers who have applied for or are currently enjoying one of the periods of leave referred to in Article 37.4, 4 bis) and 5 of the Workers' Statute; or workers who have suffered violence against women as a result of exercising their rights to shorten or rearrange their working schedule, geographical mobility, change of work centre or suspension of their employment relationship, in the terms and conditions acknowledged by the Workers' Statute.

c) Dismissal of workers after being reinstated in their work posts at the end of a contractual suspension due to maternity leave, adoption, fostering or paternity, provided that no more than nine months have elapsed since the date of birth, adoption or fostering of the child.

The foregoing provisions shall apply unless, in these cases, the dismissal is declared as fair for reasons not related to the pregnancy or to the exercise of the right to the aforementioned permits and extended leave of absence.

3. If it is ascertained that the dismissal was based on one of the reasons indicated in the previous section, the Judge shall issue a ruling, regardless of the form in which the dismissal took place.

Article 109.[Fair dismissal]

If a dismissal is declared fair, the termination of the contract derived from the dismissal shall be reaffirmed, without a right to any damages or to salary accrued during court proceedings.

Article 110.[Unfair dismissal]

1. If the dismissal is declared unfair, the employer shall be ordered to reinstate the worker in the same conditions that applied before the dismissal or, at the worker's choice, to be paid indemnification, in the amount established according to the provisions of Article 56.1.a) of the Revised Text of the Workers' Statute. The order shall also include the payment of the amount referred to in Article 56.1.b), with the limitations, as the case may be, foreseen in Article 56.2, and notwithstanding the provisions of Article 57.

In the case of an unfair dismissal of a worker subject to a special employment relationship, the amount of the indemnification shall be the one established in the rule governing said special relationship.

2. In the event that the dismissal of a legal or trade union representative of the workers is declared unfair, the option foreseen in the previous section shall correspond to the worker.

3. The option shall be exercised in writing or in an appearance before the Secretary of the Industrial Court, within a term of five days following notification of the decision declaring the dismissal as unfair, without waiting until the decision is rendered final, if issued by an instance court.

4. If a dismissal is declared unfair due to a breach of the formal requirements established, and reinstatement is applied for, a new dismissal may be made within seven days following notification of the decision. This dismissal may not be used to remedy the original extinguishing act but shall represent a new dismissal, effective as of the date thereof.

Section 1 modified by Art. 6.1 of Act 45/2002, of 12 December (RCL 2002, 2901).

Article 111.[Effects of an appeal against a declaration of unfairness]

1. If the decision declaring the dismissal as unfair is appealed, the option exercised by the employer shall have the following effects:

a) If reinstatement is applicable, regardless of the appellant, reinstatement shall take place in a provisional manner in the terms established in Article 295 below.

b) If the employer has opted for indemnification, both in the event that the appeal were lodged by the employer or by the worker, the judgment may not be provisionally enforced, although the worker shall be granted involuntarily unemployed status

during the processing of the appeal. If the judgment resolving the appeal lodged by the worker were to increase the indemnification, the employer, within five days following notification thereof, may choose another option and, in such case, the reinstatement shall be backdated in economic terms to the date when the first choice was made; any amounts paid for this item shall be decreased by those paid to the worker, as the case may be, as unemployment benefits. This amount, as well as the employer's Social Security contribution on behalf of the worker, must be deposited by the employer at the Management Entity.

For the purposes of recognising a future right to unemployment benefits, the period referred to in the foregoing paragraph shall be considered as belonging to an employed, contribution-paying worker.

2. Regardless of the option exercised, it shall be deemed as not made if the High Court, when resolving the appeal, declares the dismissal as null and void. A confirmation of the appealed judgment may not change the option that was exercised.

Article 112.[Unfair dismissal of a legal or trade union representative]

1. If an appeal is brought against a decision declaring the unfairness of a dismissal of a legal or trade union representative of the workers, the option exercised by said representatives shall have the following consequences:

a) If the worker has chosen to be reinstated, regardless of the party lodging the appeal, the provisions of Article 295 below shall apply.

b) If indemnification is chosen, regardless of whether the worker or employer is the appellant, the judgment may not be provisionally enforced, although the worker shall enjoy involuntarily unemployed status during the processing of the appeal. If the decision resolving the appeal lodged by the employer were to decrease the indemnification, the worker may change his/her option within five days following notification thereof, in which case the reinstatement shall be backdated, in economic terms, to the date of the initial choice; any amounts paid for this item shall be reduced by those, if any, paid to the worker as unemployment benefits. Said amount, as well as the employer's Social Security contribution on behalf of the worker, must be deposited by the employer at the Management Entity.

For the purposes of recognising a future right to unemployment benefits, the period referred to in the foregoing paragraph shall be considered as belonging to an employed, contribution-paying worker.

2. Regardless of the option exercised, it shall be deemed as not made if the High Court, when resolving the appeal, declares the dismissal as null and void. A confirmation of the appealed judgment may not change the option that was exercised.

Article 113.[Null and void dismissal]

If the dismissal is declared null and void, the court shall order the immediate reinstatement of the worker and the payment of any salary no longer paid. The judgment shall be provisionally enforced in the terms established in Article 295, both if appealed by the employer or by the worker.

Section 2. ***Procedure for the challenging of sanctions***

Article 114.[General conditions]

1. The worker may challenge any sanction imposed by filing a claim within the term indicated in Article 103 herein.

2. In proceedings involving a challenge of sanctions based on serious or very serious offences, imposed on workers holding the status of legal or trade union representatives, the defendant must provide the documents required by law in which it submits its defence.

3. The employer must prove the accuracy of the facts attributed to the worker, and the seriousness thereof; no other reasons to challenge the claim may be brought than those alleged at the time to justify the sanction. Allegations, evidence and conclusions shall be provided by the parties in the order established for disciplinary dismissals.

Article 115.[Content of the judgment]

1. The judgment shall contain any of the following pronouncements:

a) Confirmation of the sanction, when fulfilment of the formal requirements and accuracy of the breach attributed to the worker are ascertained, including the seriousness of the breach, valued according to the scale of offences and sanctions foreseen by law or in the applicable CBA.

b) A total revocation, when the accuracy of the facts attributed to the worker are not proved or said facts do not amount to an offence.

c) A partial revocation, whenever the offence committed is not adequately classified, in which case the Judge may authorise that a sanction be imposed that is proportional to the seriousness of the offence.

d) Null and void, if the sanction was imposed without observing the formal requirements established by law or in a CBA, or when a defect in such requirements is such as to prevent the achievement of their purpose.

2. For the foregoing purposes, any sanctions imposed on legal workers' representatives or trade union representatives, for serious or very serious offences, without previously hearing the remaining members of the representation to which the worker belonged, including sanctions imposed on workers who are members of a Trade Union, without hearing the trade union representatives, shall be null and void. A sanction included amongst those that are forbidden by law, or if not contemplated by law or in the applicable CBA, shall also be null and void.

3. No appeal may be lodged against the judgments delivered in these proceedings, except in the case of sanctions imposed for very serious offences, if corroborated by the court.

CHAPTER III *Claims against the State for the payment of salary accrued during dismissal proceedings*

Article 116.[General principle]

1. If more than sixty business days elapse between the date on which the dismissal claim was deemed as filed and the decision delivered by the Court or Tribunal that initially declares it unfair, the employer, once the judgment is signed, may claim from the State the salary paid to the worker that exceeds said term.

2. In the event that the employer is temporarily insolvent, the worker may directly claim the aforementioned salary from the State, if not paid by the employer.

Article 117. [Requirements]

1. In order to bring a claim against the State for salary accrued during court proceedings, a prior requirement shall be to have filed a claim in administrative channels in the form and time established. If said administrative claim is rejected, the employer or worker, as the case may be, may bring the relevant action before the Instance Court that examined the dismissal.

2. The claim shall attach a copy of the unfavourable administrative resolution or of the request for payment.

Article 118.[Procedure]

1. Once the claim is accepted, a date shall be scheduled for the trial during the following five days; to this effect, the worker, employer and Treasury Counsel shall be summoned, without suspending the proceedings in order that the latter may make the necessary consultation to the General Directorate of the State Legal Department.

2. The trial shall exclusively examine the applicability and amount of the claim, and no evidence shall be accepted that is aimed at challenging the statements proved in the dismissal judgment.

Article 119.[Periods excluded for calculation purposes]

1. In order to calculate the time exceeding the term of sixty business days referred to in Article 116 above, the following periods shall not be taken into account:

a) The time invested in remedying the claim, due to not having ascertained that the conciliation proceedings or prior administrative claim were executed, or due to defects, omissions or inaccuracies in the claim.

b) The period during which the proceedings were suspended, at a party's request, due to suspension of the trial act in the terms foreseen in Article 83 herein.

c) The time during which the suspension remains in order to verify the filing of a criminal complaint, in cases where either party alleges a documentary falsehood that could significantly affect the trial.

2. In the aforementioned cases, the Judge, based on the evidence provided, shall decide whether the salary corresponding to the time investment should be borne by the State or by the employer. Exceptionally, the worker may be deprived of the salary if the Judge determines that he/she incurred a manifest abuse of law during the proceedings.

CHAPTER IV Contractual termination for objective reasons and other events of termination

Section 1. Termination for objective reasons

Article 120.[Rules of procedure]

The proceedings derived from a termination of an employment contract for objective reasons shall adjust to the rules contained in the Chapter on dismissal proceedings and sanctions, notwithstanding the particularities indicated in the following articles.

Article 121.[Term]

1. The twenty-day term in which to exercise the action to challenge the decision to terminate shall in any case begin to run as of the day following the termination date of the employment contract. The worker may anticipate the exercise of his/her action as of the date prior notice is received from the employer.

2. Payment to the worker of the indemnification offered by the employer or the use of the authorisation to find a new job will not stop the exercise of the action or will entail an acceptance with the employer's decision.

Article 122.[Events of nullity]

1. The decision to terminate shall be declared to be fair whenever the employer, after fulfilling the forma requirements necessary, ascertains the existence of the legal cause indicated in the written notification. If this is not verified, the decision shall be declared unfair.

2. A decision to terminate shall be null and void whenever:

a) The legal formalities for a written notification, indicating the cause, are not met.

b) The worker is not provided with the corresponding indemnification, except in those cases where this requirement is not mandatory.

c) It is discriminatory or contrary to the worker's basic human rights and public freedoms.

d) It is made in fraud of law, avoiding the rules established for collective dismissals, in the cases referred to in the last section of Article 51.1 of the Revised Text of the Workers' Statute (RCL 1995, 997).

A decision to terminate shall also be null and void in the following cases:

a) If it affects workers during the suspension of their employment contract as a result of maternity leave, a high-risk pregnancy, adoption or fostering referred to in Article 45.1.d) of the Workers' Statute, or a decision notified on such a date that the prior notice ends within said period.

b) If it affects pregnant workers, from the beginning of the pregnancy until the beginning of the suspension to which a) refers to above, including workers who have requested or are enjoying one of the leaves referred to in Article 37.4 and 5 of the Workers' Statute, or have applied for extended leave of absence further to Article 46.3 of the Workers' Statute.

The foregoing shall be applicable unless, in either case, the decision to terminate is declared as fair for reasons not related to the pregnancy or to the exercise of the right to periods of leave and extended leave of absence.

3. A statement of nullity shall not be applicable if the prior notice is omitted or because there was an inexcusable error in the calculation of the indemnification made available to the worker.

Article 123.[Judgment and effects]

1. If the judgment upholds the employer's decision, the employment contract shall be deemed as terminated and the employer, as the case may be, will be ordered to pay the worker any differences that may exist both between the indemnification already received and the one he/she is legally entitled to, and related to the salary accrued during the prior notice, in the events that such notice is not given.

2. If the decision to terminate is declared unfair or null and void, the employer shall be sanctioned in the terms foreseen for disciplinary dismissal; the salary accrued during court proceedings may not be deducted from the salary accrued during the prior notice period.

3. In the event that reinstatement is applicable, the worker must reimburse the indemnification received.

4. As the case may be, the Judge shall agree on an offset between the indemnification received and the one ordered in the judgment.

Section 2. Collective dismissals for economic, organisational, technical or productive reasons

Article 124.[Prior administrative authorisation]

An employer's agreement to collectively terminate several employment contracts for economic, technical, organisational or production reasons, force majeure or the termination of the employer's legal status, shall be declared null and void by the court, *ex officio* or at a party's request, if prior administrative authorisation is not obtained, when legally foreseen. In this case, the sanction imposed shall be the one established in Article 113 herein.

CHAPTER V ***Holidays, elections, professional categories, geographical mobility, substantial modifications of work conditions, period of leave for breast-feeding, and shorter working hours for family reasons***

Section 1. ***Holidays***

Article 125.[Scheduling rules]

The procedure for an individual or multiple scheduling of holidays shall be governed by the following rules:

a) If the date is indicated in the CBA or is agreed between the employer and workers' representatives, or were unilaterally scheduled by the employer, the worker shall have a term of twenty days following the time he/she became aware of the scheduled date to bring a claim before the Industrial Court.

b) If the holiday date were not indicated, the claim must be filed at least two months before the scheduled date for the worker's holidays.

c) If, once the lawsuit is initiated, the holiday dates were scheduled pursuant to Article 38 of the Revised Text of the Workers' Statute (RCL 1995, 997), the proceedings shall not be discontinued.

d) If the object of dispute is related to preferences attributed to various workers, the latter will also act as defendants.

Article 126.[Urgency of the procedure]

The procedure shall be treated as urgent and will be processed with priority. The hearing act must be scheduled within five days following the date the claim is given leave to proceed. The judgment, which shall be non-appealable, shall be issued within a term of three days.

Section 2. ***Elections***

Sub-section 1. Challenge of awards

Article 127.[Status to act as plaintiff]

1. The arbitration awards foreseen in Article 76 of the Revised Text of the Workers' Statute (RCL 1995, 997) may be challenged through the procedure described below.

2. A challenge may be brought by a party with a legitimate interest, including the employer company if it holds such an interest, within a term of three days following awareness thereof.

Article 128.[Reasoning]

The claim may only be based on the following grounds:

a) Undue appreciation or non-appreciation of any of the causes foreseen in Article 76.2 of the Revised Text of the Workers' Statute (RCL 1995, 997), provided that this was alleged by the applicant party during the course of arbitration.

b) If the arbitration award has resolved issues not subject to arbitration or which, otherwise, were unduly subject to arbitration. In these cases, the cancellation shall only affect those issues not subject to a decision or not covered by arbitration proceedings, provided that they are material in themselves and are not inevitably linked to the main issue.

c) If arbitration proceedings are brought outside the terms established in Article 76 of the Revised Text of the Workers' Statute (RCL 1995, 997).

d) If the arbitrator did not grant the parties a chance to be heard or to provide evidence.

Article 129.[Status to act as defendant]

1. The claim must be addressed against those individuals and trade unions who were a party to the arbitration proceedings, including any other parties affected by the award being challenged.

2. In no event will works councils, staff representatives or an election board be treated as defendants.

Article 130.[Mandatory joinder of defendants]

If, after examining the claim, the Judge considers that it was unable to be addressed against all those affected, he/she shall summon the parties in order to appear, on the following day, in a preliminary hearing , at which the potential mandatory joinder of defendants shall be thereupon resolved after hearing the parties.

Article 131.[Appearance of trade unions and employer]

Trade unions, the employer and the members of lists of candidates not presented by the trade union may appear as a party to these proceedings if they hold a legitimate interest.

Article 132.[Urgent processing]

1. An urgent lawsuit shall be processed as follows:

a) Upon acceptance of the claim, the Judge shall collect the text of the arbitration award from the public office, as well as a copy of the administrative proceedings brought in relation to the elections. The foregoing documentation shall be sent by the summoned party the following day.

b) The trial act shall be held within five days following the acceptance of the claim. A non-appealable judgment shall be issued within three days and must be notified to the parties and to the public office.

c) The examination of these proceedings shall not suspend the course of the election, unless this were ordered by the Judge, on reasonable grounds and at the party's request, if there is a reason justifying the same.

2. If the employer is acting as plaintiff, and the Judge considers that the claim was aimed at hindering or delaying the election process, the judgment resolving the challenging petition may entail the sanction foreseen in Article 97.3.

Sub-section 2. ***Challenge of the administrative resolution refusing registration***

Article 133.[Challenge of the refusal to register the election certificates of representatives]

1. A challenge may be brought before the Industrial Court, the jurisdiction of which covers the public office, against the latter's refusal to register the certificates regarding the election of staff representatives and members of works councils. Those parties who have obtained a representative according to the election certificate may act as plaintiffs.

2. The public office will always act as a party, also addressing the claim against those who presented candidates to the election that is being subject to the administrative resolution.

Article 134.[Term]

There shall be a ten-day term in which to exercise the action to challenge, following the date on which the notification is received.

Article 135.[Urgent processing]

1. The case shall be given urgent processing. Within forty-eight hours following acceptance of the claim, the Judge shall request from the competent public office delivery of the administrative records, to be sent within a term of two days.

2. The trial act shall be held within five days following receipt of the records.

Article 136.[Judgment]

A non-appealable judgment shall be delivered within a term of three days, and shall be notified to the parties and to the public office. If the claim is upheld, the judgment shall order an immediate registration of the election certificate.

Section 3. *Professional categories*

Article 137.[Challenging procedure]

1. The claim initiating this process shall include a report issued by the works council or, if applicable, by the staff representatives. In the event that said bodies do not issue a report within a term of fifteen days, it shall suffice for the plaintiff to ascertain that a request was made.

2. In the court order ascertaining that the claim was filed, the Judge shall instruct that a report be obtained from the Employment and Social Security Inspection, which shall be provided with a copy of the claim and attached documentation. The report shall cover the facts invoked and the circumstances surrounding the plaintiff's conduct and must be issued within a term of fifteen days.

3. No appeal whatsoever may be lodged against the judgment that is eventually delivered.

Section 4. ***Geographical mobility and substantial modifications in work conditions***

Article 138.[Challenging procedure]

1. The process shall begin further to a claim brought by the workers affected by the employer's decision, which shall be filed within a term of twenty business days following notification of the decision.

2. If the object of dispute is related to the preferences given to various workers, these must also act as defendants. Likewise, workers' representatives shall act as defendants whenever, in the case of transfers or modifications of a collective nature, they provided their consent to such measure.

3. If, once the lawsuit is initiated, a collective dismissal claim is brought against the employer's decision, the initial lawsuit shall be suspended until the collective dismissal claim is resolved.

Nevertheless, an agreement between the employer and the workers' legal representatives, once the lawsuit is underway, will not interrupt the course of proceedings.

4. The lawsuit shall be processed as urgent and will be given preferential treatment. The trial act must be scheduled within five days following acceptance of the claim.

The judgment, which shall be non-appealable and immediately enforceable, must be delivered within a term of ten days.

5. The judgment shall declare whether the employer's decision is justified or unjustified, depending on whether the reasons alleged by the employer were or were not accredited, in relation to the workers affected.

A judgment that declares the measure to be unjustified shall acknowledge the worker's right to be reinstated in his/her former work conditions.

Any decision adopted in fraud of law, evading the rules established for collective decisions in the last paragraph of Article 40.1 of the Revised Text of the Workers' Statute (RCL 1995, 997), and in the last paragraph of Article 41.3, shall be declared null and void.

6. If the employer does not proceed to reinstate the worker in his/her former work conditions, or does so irregularly, the worker may request that the ruling be enforced before the Industrial Court and termination of the contract further to the causes

foreseen in Article 50.1.c) of the Revised Text of the Workers' Statute (RCL 1995, 997), pursuant to the provisions established in Articles 277, 278 and 279 herein.

7. If the judgment declares the nullity of the employer's measure, it shall be enforced in its own terms, unless the worker were to apply for the enforcement foreseen in the previous section. In any case, the terms indicated above shall apply.

Section 5. ***Leave for breast-feeding and shorter working hours for family reasons***

Article 138.bis.[Rules]

The procedure to determine the working schedule and period of enjoyment corresponding to a leave for breast-feeding and shorter working hours for family reasons shall be governed by the following rules:

a) The worker shall have a term of twenty days, following notification from the employer of its non-acceptance of the working schedule and period of enjoyed proposed by the worker, in which to file a claim before the Industrial Court.

b) The procedure shall be processed with urgency and shall be given preferential treatment. The trial act must be scheduled within five days following acceptance of the claim. A non-appealable judgment must be delivered within a term of three days.

CHAPTER VI Social Security

Article 139.[Prior claim]

In claims related to Social Security matters, brought against Management Entities or common departments, including those that allege the infringement of a basic human right, the prior claim step foreseen in Article 71 herein must be accredited. Otherwise, the Judge shall order that this defect be remedied within a term of four days; if this is not carried out upon expiration of this term, the Judge shall order the shelving of the claim without any further step being taken.

Article 140.[Intervention of management entities and the Treasury]

The Management Entities and the General Social Security Treasury may intervene as parties in lawsuit related to Social Security matters in which they have an interest; their intervention may not backdate or stop the course of proceedings.

Article 141.[Occupational accidents]

1. In claims based on occupational accidents or illnesses, if the Management Entity or Social Security Mutual for Occupational Accidents and Illnesses were not identified, the Judge, before scheduling the trial date, shall summon the defendant employer so that, within a term of four days, it may provide the document ascertaining coverage of the risk. If this term elapses without said document being presented, in light of the existing circumstances and after hearing the General Social Security Treasury, the Judge shall decree an attachment of the employer's goods in a sufficient amount to cover the outcome of the case.

2. In occupational accident cases, the Judge, before the trial act, shall request that the Provincial Work and Social Security Inspection, if not already included in the records, provide a report on the circumstances in which the accident took place, the work being carried out by the injured party, the salary being received and contribution basis paid, to be necessarily issued within a maximum of ten days.

Article 142.[Forwarding of records by the management entity]

1. Once the claim is given leave to proceed, the Judge will send an *ex officio* order to the Management Entity or Common Department to forward the original court records or proceedings or a copy thereof and, if applicable, a background report in relation to the content of the claim, within a term of ten days. If the original records are sent, these shall be returned to the Entity of origin, with the judgment being non-appealable, and the case records shall make the corresponding entry.

2. During the lawsuit none of the parties may allege facts other than those alleged in the administrative proceedings.

Article 143.[Trial]

1. The trial shall be held on the scheduled date, even if the relevant Entity has not returned the records or a copy thereof, unless this omission is sufficiently justified.

2. If the plaintiff wishes to provide the records for its own purposes, it may request a suspension of the lawsuit in order for new instructions to be issued to send the records within a further term of ten days.

3. If, at the date of the new request, the records were still not provided, the facts alleged by the plaintiff and for which evidence is impossible or unfeasible through means other than the records may be deemed as proved.

Article 144.[Disciplinary liability for non-provision of records]

The non-provision of records shall be notified to the Head of the Management Entity or Common Department, for the purposes of a potential claim for disciplinary liability against the civil servant.

Article 145.[Self-review by the management entities]

1. The Management Entities or Common Department may not revise their own declaratory acts of rights to the detriment of their beneficiaries; as the case may be, they shall request a review before the competent Industrial Court, by addressing the relevant claim against the beneficiary of the acknowledged right.

2. An exception to the foregoing section shall be the rectification of material or *de facto* mistakes and mathematical errors, including the reviews derived from the discovery of omissions or inaccuracies in the beneficiary's statements.

3. The action for review referred to in section one above shall have a five-year statute of limitations.

4. The judgment ordering a review of the challenged act shall be immediately enforceable.

Article 145.bis.

1. If the Management Entity of unemployment benefit were to discover that, during the four years immediately preceding an application for benefits, the worker had received benefits due to the termination of several part-time contracts with the same company, it may address the judicial authority *ex officio* requesting that the employer be ordered to pay said benefits, except for the benefit corresponding to the last part-time employment contract, if the reiterated execution of part-time contracts were abusive or fraudulent, and that the employer be ordered to return these benefits to the Management Entity together with the relevant contributions.

The notification, which shall have the status of a claim, shall include a copy of the administrative record(s) on which it is based; the claim shall indicate the general requirements imposed by this Act for ordinary lawsuit claims.

The notification may be addressed to the court authority within a term of three months following the date on which the last application for benefits was made, in due time and form.

The provisions of this section shall not entail a review of any resolutions that acknowledged a right to unemployment benefits derived from the termination of reiterated part-time contracts, which shall be deemed as owed to the worker.

2. The Judge shall examine the claim before ordering its acceptance, in order to check whether all the necessary requirements are met; it shall notify the Management Entity, as the case may be, of any defects or omissions that may be discovered, in order to be remedied within a term of ten days.

3. Once the claim is given leave to proceed, the lawsuit shall continue further to the general rules herein, with the following particularities:

a) An employer and worker who have executed reiterated part-time contracts shall be treated as a party in the proceedings, although they may not request the suspension of the lawsuit and the worker may not abandon suit. Even in their absence, the proceedings shall be pursued *ex officio*.

b) The statements of fact contained in the basic notification of the lawsuit shall act as an affidavit, unless there is evidence to the contrary, in which case the onus of proof shall be borne by the defendant employer.

4. A judgment upholding the Management Entity's claim shall be immediately enforceable.

5. As soon as the judgment becomes final, it shall be notified to the Work and Social Security Inspection.

In the event that, further to the statement of proven facts indicated in the judgment, a certificate of breach were issued by the Work and Social Security Inspection, the provisions established in Article 149.2 of this Act shall not apply.

CHAPTER VII Ex officio *proceedings*

Article 146.[Causes of initiation of a lawsuit]

A lawsuit may be initiated *ex officio* as a result of:

a) Certifications of final resolutions issued by the labour authority, derived from certificates of infringement of the Work and Social Security Inspection that indicate economic loss suffered by the workers affected.

b) Resolutions issued by the competent labour authority, when wilful intent, duress or abuse of law is discovered in the execution of suspension or termination agreements, referred to in Articles 47 and 51.5 of the Workers' Statute.

c) Notifications made by a labour authority, referred to in Article 149 herein.

d) Notifications made by the Work and Social Security Inspection regarding the existence of discrimination on the grounds of sex, describing the grounds of the estimated losses suffered by the worker, in order to determine the applicable indemnification.

In this case, the corresponding Head of Inspection must notify this fact to the competent labour authority, for information purposes, in order that it may forward the

matter to the competent jurisdictional body for the purposes of a joinder of actions, if brought after the *ex officio* procedure referred to in Article 149.2 below.

Article 147.[Documentation requirements]

1. Any documents on which initiation of the lawsuit is based shall indicate the general requirements imposed by this Act on ordinary lawsuit claims.

2. Provided that the foregoing claims affect more than ten workers, the court shall request that they appoint representatives in the manner foreseen in Article 19 above.

Article 148.[Leave to proceed]

1. The Judge shall examine the claim before ordering its acceptance, in order to check whether it meets all the necessary requirements, notifying the labour authority, as the case may be, of any defects or omissions discovered in order to be remedied within a term of ten days.

2. Once the claim is given leave to proceed, the proceedings shall continue further to the general rules herein, with the following particularities:

a) Proceedings shall be pursued *ex officio*, even in the absence of the injured workers, who will considered a party to the lawsuit, notwithstanding being unable to abandon suit or apply for a suspension of the proceedings.

b) Conciliation may only be authorised by the court whenever all the damages caused by the breach are duly settled in full.

c) Any agreements reached between workers and employers subsequent to the certificate of breach shall only be effective if they were executed in the presence of the Inspector who raised the certificate, or before the labour authority.

d) The confirmations of facts contained in the basic resolution or notification of the lawsuit may be used as affidavit unless evidence is provided to the contrary, in which case the entire burden of proof shall be borne by the defendant.

e) All judgments that are delivered in these cases must enforced *de officio*.

Article 149.[Notifications]

1. The lawsuit may also be initiated *ex officio* by virtue of a notification, addressed from the labour authority to the Court, whenever any certificate of infringement raised by the Work and Social Security Inspection were challenged by the part in charge based on allegations and evidence that could affect the labour nature of the legal relationship being examined by the Inspection.

2. The foregoing shall also apply in the event that the certificates of infringement are related to any of the matters foreseen in Article 7.2, 6 and 10 and Article 8.2, 11 and 12 of the Revised Text of the Act on Infringements and Sanctions in Industrial Matters, approved by Royal Legislative Decree 5/2000, of 4 August (RCL 2000, 1804, 2136), when the party in charge has challenged them based on allegations and evidence indicating that the examination of the merits of the case corresponds to the industrial courts according to Article 9.5 of the Organic Act of the Judiciary.

Article 150.[Procedure]

1. The labour authority shall include a copy of the administrative records in the *ex officio* claim referred to in the foregoing article.

2. Acceptance of the claim shall entail the suspension of administrative proceedings.

3. This *ex officio* procedure shall be governed by the rules of Article 148.2.a) and d) herein.

4. If it is determined that the allegations of the person in charge are aimed at delaying administrative proceedings, the court shall impose a fine for recklessness in the final judgment, as per Article 97.3, for its maximum amount.

5. The final judgment shall be notified to the labour authority.

CHAPTER VIII Procedure for collective dismissals

Article 151.[Object]

1. This procedure shall be used to process any claims affecting the general interests of a generic group of workers, in relation to the application and interpretation of a State law, CBA, of whatever scope, or of an employer's decision or practice.

2. This procedure shall also be used to process a challenge to CBAs, pursuant to the provisions established in Chapter IX of this Title.

Article 152.[Status to act as plaintiff]

The following parties shall be entitled to bring a lawsuit regarding collective dismissals:

a) Trade unions whose scope of activity is the same as or is wider than that of the dispute.

b) Employer associations whose scope of activity is the same as or is wider than that of the dispute, provided that the scope of the dispute extends beyond that of the company.

c) Employers and bodies of legal or trade union representatives of workers, in the event of a dispute within the company or with a smaller scope.

Article 153.[Participation of the most representative trade unions]

In any case, representative trade unions, pursuant to Articles 6 and 7 of the Organic Act on Trade Union Freedom (RCL 1985, 1980); representative employer associations, further to Article 87 of the Revised Text of the Workers' Statute 8RCL 1995, 997); and bodies of legal or trade union representatives, may intervene as parties to the lawsuit, even if they did not bring the claim, provided that their scope of action is the same as or is wider than that of the dispute.

Article 154.[Attempted prior conciliation]

1. In order to process the lawsuit, a prior requirement shall be to have attempted a conciliation before the corresponding administrative department or before the conciliation bodies that may be assigned according to inter-professional agreements or the CBAs referred to in Article 83 of the Revised Text of the Workers' Statute (RCL 1995, 997).

2. The agreement reached further to a conciliation process shall have the same effectiveness granted to CBAs under Article 82 of the Revised Text of the Workers' Statute (RCL 1995, 997), provided that the conciliating parties are entitled to act as

such and adopt the agreement further to the requirements imposed by said law. In this case, a copy of the conciliation shall be sent to the labour authority.

Article 155.[Claim]

1. The lawsuit shall begin with a claim addressed to the competent Court or Tribunal which, apart from the general requirements, shall provide a general indication of the workers and Companies affected by the dispute, as well as a succinct reference to the points of law included in the petition.

2. The claim shall include a certificate confirming that an attempt was made to reach a prior conciliation, pursuant to the foregoing article, or an allegation that such conciliation is not necessary.

Article 156.[Notifications]

The lawsuit may also be initiated through a notification from the labour authority, at the request of the representatives referred to in Article 152 above. This notification shall contain the same requirements as those imposed on a claim pursuant to the foregoing article. The Judge or Chamber, as applicable, shall advise the labour authority of any defects, omissions or inaccuracies discovered in the notification, in order to be remedied within a term of ten days.

Article 157.[Urgency]

This lawsuit shall be processed as urgent. It shall enjoy absolute preference over any other matters that are processed, except for those related to the protection of trade union freedom and other basic human rights.

Article 158. [Procedure]

1. Once the claim or notification is received from the labour authority, the Judge or Chamber shall summon the parties in order to hold the trial act, which shall take place, at one call, within five days following the date the claim is given leave to proceed.

2. A judgment shall be delivered within the next three days, and the competent labour authority shall be duly notified, as necessary. The judgment will be enforceable from the moment it is issued, notwithstanding any appeal that may be eventually lodged.

3. The final judgment shall have the effect of *res iudicata* over any individual lawsuits that are pending to be resolved or that may be raised, in relation to the same object.

Article 159.[Appeal against rulings and orders]

No appeal may be lodged against the rulings and orders that are issued during the processing thereof, except for an initial statement of non-competence.

Article 160.[Shelving of the case due to resolution of the dispute]

If the Court or Tribunal is notified by the parties that the dispute has been resolved, it shall automatically proceed to shelve the proceedings, regardless of the stage in the processing prior to the judgment.

CHAPTER IX *Challenges to CBAs*

Article 161.[Grounds for bringing a challenge]

1. A challenge may be brought *ex officio* against a CBA covered by Title III of the Revised Text of the Workers' Statute (RCL 1995, 997), before the competent Court or Chamber, if it apparently infringes the current legal framework or seriously injures a third party interest, through a notification sent by the relevant labour authority.

2. If the CBA were still not registered, the workers' legal or trade union representatives, or the employers who claim its illegality, or injured third parties who so claim, must previously request that the labour authority address an *ex officio* notification to the Court or Chamber.

3. If the labour authority does not reply to the request referred to in the foregoing section within a term of fifteen days, rejects the application or the CBA were already registered, any challenge against it may be directly brought by the parties entitled to do so, through the collective dismissal procedure.

Article 162.[Requirements of the *ex officio* notification]

1. The *ex officio* notification that upholds the illegality of the CBA must contain the following requirements:

a) Specification of the law and the legal issues that are deemed as breached by the CBA.

b) A succinct reference to the legal grounds of the illegality.

c) A list of the representatives belonging to the committee that is negotiating the challenged CBA.

2. The *ex officio* notification that upholds the illegality of the CBA must contain, apart from the requirement indicated in section c) above, a list of presumably injured third party claimants, describing the interest they hold for which protection is being sought.

3. The Judge or Chamber shall advise the labour authority of any defects, omissions or inaccuracies detected in the notification, in order that they be remedied within a term of ten days.

4. The lawsuit shall include, apart from the representatives belonging to the committee that is negotiating the CBA, any presumably injured third party claimants, if any, and any parties who may have reported the illegality or harmfulness of the CBA before the labour authority.

5. If the challenge is made by the labour authority and in the absence of claimants, the Treasury Counsel shall also be summoned.

6. The Public Prosecutor will always be a party to these proceedings.

7. The *ex officio* notification shall attach the challenged CBA and copies thereof for as many parties there are in the lawsuit.

Article 163.[Status to act as plaintiff]

1. The following parties shall be entitled to act as plaintiff in order to challenge a CBA, regardless of its scope, through a collective dismissal procedure:

a) If the challenge is based on the illegality of the CBA, the workers' legal or trade union representatives, Trade Unions and interested employer Associations.

b) If the reason for the challenge is the harmfulness of the CBA, those third parties whose interest is seriously harmed. The workers and employers included within the scope of application of the CBA will not be treated as third parties.

2. All the representatives belonging to the committee that is negotiating the CBA shall have defendant status.

3. Apart from the general requirements, the claim shall contain the particularities foreseen in the foregoing article for *ex officio* notifications and must include the CBA and copies thereof.

4. The Public Prosecutor shall always be a party to these proceedings.

Article 164.[Procedure]

1. Once the *ex officio* notification or the claim is received, the Judge or Chamber shall schedule the trial date, summoning the Public Prosecutor and, if applicable, the parties referred to in Article 162.4 above. At their appearance in the trial, the parties will first of all present the procedural position adopted, in acceptance or in disagreement, with respect to the petition made.

2. The judgment, which shall be delivered within the following three days, shall be notified to the labour authority and shall be enforceable from the moment it is issued, notwithstanding any appeal that may eventually be lodged.

3. If the judgment entails the annulment, in whole or in part, of the CBA challenged and the CBA were published, the judgment will also be published in the Official Gazette that inserted the CBA.

CHAPTER X *Challenges or modifications to the Regulations of Trade Unions*

Section 1. ***Challenge against the administrative resolution denying the deposit***

Article 165.[Status to act as plaintiff]

1. The sponsors of worker Trade Unions in the process of being incorporated, and the signatories of the certificate of incorporation thereof, may challenge the resolutions of public offices that refuse to deposit the Regulations presented for publication purposes.

2. The Public Prosecutor shall always be a party to these proceedings.

Article 166.[Terms]

The term in which to bring an action to challenge shall be ten business days, following the date on which the notification is received of the express unfavourable resolution, or if one month elapses since the filing of the Regulations without the sponsors being notified of the defects to be remedied.

Article 167.[Documentation]

The claim shall attach copies of the Regulations and of the unfavourable resolution, if expressly issued, or a copy ascertaining the filing of the Regulations.

Article 168.[Forwarding of records]

During the next business day following acceptance of the claim, the Judge or Chamber shall request that the competent public office forward the records, to be sent within a term of five days.

Article 169.[Favourable judgment]

If the judgment upholds the claim, an order shall be issued to immediately deposit the trade union regulations at the corresponding public office.

Article 170. [Applicable regulations]

1. The rules established in this section shall apply to the proceedings to challenge an unfavourable resolution to deposit trade union regulations, in the event that these are modified.

2. The trade union representatives shall be entitled to challenge the administrative resolution, and trade union members may appear as co-adjunct parties.

Section 2. ***Challenge of trade union regulations***

Article 171.[Parties]

1. The Public Prosecutor and whoever proves a direct, personal and legitimate interest may request a court declaration of non-conformity with the law in relation to trade union regulations that have been deposited and published, both in the case that the trade union is undergoing incorporation or has already acquired legal status.

2. The trade union sponsors and the signatories of the incorporation certificate shall be entitled to act as defendants, as well as the legal representatives of the Trade Union, if it has already acquired legal status.

3. The Public Prosecutor shall always be a party to these proceedings.

Article 172.[Forwarding of records]

Once the claim is accepted, the court shall request that the corresponding public office forward an authorised copy of the records, which it must do within a term of five days.

Article 173.[Judgment]

1. If the judgment is favourable, it shall declare the nullity of those clauses in the regulations that do not conform to law, or of the regulations in full.

2. The judgment shall be notified to the corresponding public office.

Article 174.[Applicable regulations]

The rules established in this section shall apply to proceedings related to the modification of regulations of trade unions that have already acquired legal status.

CHAPTER XI Protection of trade union freedom rights

Article 175.[Parties]

1. Any worker or trade union with a legitimate right or interest that believes its trade union freedom rights have been infringed, may apply for protection thereof through this process whenever the petition falls within the competence of the industrial courts.

2. In those cases where the worker, as the injured party, is entitled to act as the main plaintiff, the trade union to which he/she belongs, as well as any other trade union that enjoys the highest representation, may appear as co-adjunct parties. The latter may not appeal or continue the proceedings separately from the main parties.

3. The Public Prosecutor shall always be a party to these proceedings and shall adopt, as the case may be, the measures required to clarify any conduct amounting to an offence.

Article 176.[Right to trade union freedom]

The object of this process shall be restricted to an examination of the harm to trade union freedom, without it being possible to establish a joinder with actions of another nature or with the same petition based on grounds other than the protection of trade union freedom.

Article 177.[Requirements and processing of the claim]

1. The processing of these lawsuits shall be treated as urgent to all intents and purposes, and shall have preference over any cases being examined by the Court or Tribunal. Any appeals that may be lodged shall be resolved by the Tribunal with the same preference.

2. The claim must be filed within the general statute of limitations or expiration period for the action, in relation to conduct or acts giving rise to the harm to trade union freedom.

3. Apart from the general requirements established herein, the claim shall also clearly indicate the facts giving rise to the breach alleged.

4. Notwithstanding the provisions of Article 81.1 herein, the Judge or Chamber shall reject outright any claims that should not be processed further to the provisions of this chapter, advising the plaintiff of its right to bring the action through the applicable procedural channels. Nevertheless, the Judge or Chamber may process the claim under ordinary or special proceedings if it were competent for one or the other and the claim meets the requirements established by law.

Article 178.[Procedure]

1. In the same writ of claim the plaintiff may request a suspension of the effects of the challenged act. This petition may only be made in the case of a potential breach that prevents candidates from participating in the election process or from exercising their representative or trade union duties for collective bargaining agreement purposes, staff restructuring or other issues of great importance that affect the general interest of workers and could entail irreparable damage.

2. During the following day after the claim is accepted, the Court or Tribunal shall summon the parties and the Public Prosecutor so that, on the day and at the time

indicated, within the next forty-eight hours, they may appear in a preliminary hearing, at which only allegations and evidence on the suspension requested shall be accepted.

3. The court shall immediately issue a resolution, in a verbal order, adopting the measures required to remedy the situation, as the case may be.

Article 179.[Trial act]

1. Once the claim is given leave to proceed, the Judge or Tribunal shall summon the parties to the conciliation and trial acts, which shall take place within a non-extendable term of five days following acceptance of the claim. In any case, at least two days must elapse between the summons and the effective date of these acts.

2. In the trial act, once the existence of signs indicating a breach of trade union freedom has been ascertained, the defendant must provide an objective and reasonable justification, sufficiently proven, of the measures adopted and proportionality thereof.

3. The Judge or Chamber shall deliver a judgment within three days following the trial act, which shall be published and immediately notified to the parties or their representatives.

Article 180.[Judgment]

1. The judgment shall declare whether or not the breach alleged exists. If it exists and after declaring the outright nullity of the conduct of the employer, employer association, Public Administration or any other public or private individual, entity or corporation, the judgment shall order that the anti-trade union behaviour immediately stop and that the situation be restored to the state it was in before the breach, as well as the repair of any consequences derived from the act, including the relevant indemnification which shall be compatible, as the case may be, with the one the worker is entitled to as a result of a modification or termination of the employment contract further to the provisions of the Workers' Statute.

2. If the court holds that the foregoing circumstances are not present in the defendant's conduct, the Judge or Chamber shall order in the judgment itself that the suspension be raised over the decision or challenged act or interim measure that may have been agreed at the time.

Article 181.

Claims for protection of other basic human rights and public freedoms, including the prohibition of unfair treatment and harassment, which may arise within the scope of the legal relations attributed to the industrial courts, shall be processed according to the provisions established in this chapter. These claims shall indicate the basic human right(s) allegedly breached.

Whenever the judgment declares the existence of a breach, the Judge shall decide on the indemnification which, if applicable, should be paid to the worker who was unfairly treated, if there is a divergence of opinion between the parties. This indemnification shall be compatible, as the case may be, with the one to which the worker may be entitled as a result of a modification or termination of the employment contract further to the Workers' Statute.

Article 182.[Claims based on dismissal, holidays, elections, trade union regulations and CBAs]

Notwithstanding the provisions of the preceding articles, any claims for dismissal and for other events of termination of an employment contract, the enjoyment of holidays, elections, challenges to Trade Union Regulations or a modification thereof, and a challenge to CBAs which allegedly breach trade union freedom or another basic human rights shall be inexcusably processed under the corresponding procedural form.

TITLE III Hearing of a defendant in contempt of court

Article 183.[Rules]

Proceedings that are being processed without the defendant having appeared shall be governed by the rules contained in Title V, Book II, of the Civil Procedure Act (RCL 2000, 34, 962), with the following particularities:

1. A declaration of contempt of court shall not be necessary in relation to the defendant who, duly summoned, did not appear at the trial.

2. At the plaintiff's request, an attachment may be ordered over movable assets and real estate in the amount necessary to guarantee the claim.

3. The term in which to request a hearing shall be three months following notification of the judgment in the relevant "Official Gazette", in the events and conditions foreseen in Article 501 of the Civil Procedure Act (RCL 2000, 34, 962).

4. The petition shall be filed before the Industrial Chamber of the corresponding High Court of Justice or of the Supreme Court, as applicable.

5. The defendant shall be heard before the body that examined the lawsuit at the instance stage.

6. In either case, the steps applied to ordinary proceedings shall be followed.

BOOK III Means of challenge

CHAPTER I Appeals against orders and rulings

Article 184.[Review appeal]

1. A review appeal may be lodged against orders and ruling issued by Industrial Judges, notwithstanding the effectiveness of the resolution challenged.

2. A further appeal may not be lodged against the order deciding the review appeal, except in the events expressly established herein and notwithstanding any applicable liability in civil law.

3. A review appeal may not be lodged against orders and rulings issued in collective dismissal proceedings and in lawsuits to challenge CBAs.

Article 185.[Extraordinary appeal]

1. An extraordinary appeal may be lodged against orders that are not merely procedural and rulings issued by Industrial Chambers, before the Chamber itself, notwithstanding the effectiveness of the resolution challenged.

2. A further appeal may not be lodged against the order deciding the extraordinary appeal, except in the events expressly established herein and notwithstanding any applicable liability in civil law.

3. An extraordinary appeal may not be lodged against orders and rulings issued in collective dismissal proceedings and in lawsuits to challenge CBAs.

Article 186.[Applicable legal provisions]

Article 187.[Appeal for reversal]

Any appeal for reversal, examined by the Industrial Chambers of the High Courts of Justice or the Industrial Chamber of the Supreme Court, as the case may be, will always be processed according to the provisions foreseen in the Civil Procedure Act to file a complaint before the Supreme Court.

CHAPTER II ***Appeals for reversal***

Article 188.[Competence]

1. The Industrial Chambers of the High Courts of Justice shall examine appeals for reversal lodged against the resolutions issued by industrial courts within their jurisdiction, as well as against any orders and rulings issued by the mercantile judges within their jurisdiction in relation to labour law.

2. This appeal may be lodged against the resolutions and for the reasons foreseen in this Act.

Article 189.[Acts subject to appeal]

The following acts may be subject to an appeal for reversal:

1. Judgments issued by the Industrial Courts in proceedings brought before them, in any matter, except for those issued in proceedings regarding holiday dates, work schedule and specification of periods of leave for breast-feeding or shorter working hours for family reasons, elections, professional categories, challenges against a sanction imposed for an offence (other than very serious) or for a very serious offence not confirmed by the court, and resolutions issued in claims in which the amount disputed does not exceed 300,000 pesetas (1,803 euros). An appeal for reversal shall in any case apply:

a) In dismissal proceedings.

b) In proceedings brought on the grounds of claims, joined or not joined, where the issue disputed affects all or a large number of workers or Social Security beneficiaries, provided that this general effect is apparent or was alleged and proved in court, or is clearly of a general nature not disputed by any of the parties.

c) In proceedings related to the acknowledgment or refusal of the right to obtain Social Security benefits, including unemployment benefits, and the level of disability applicable.

d) Against judgments delivered in claims brought to remedy an essential procedural defect or the omission to attempt a prior obligatory conciliation, provided that the protest is presented in due time and form and unprotection has been suffered.

e) Against judgments resolving on the competence of a Court based on the subject matter. If the merits of the case are not covered by the scope of the appeal for reversal, the judgment shall only decide on the competence applicable.

Judgments deciding location-based competence may only be subject to an appeal for reversal if the claim under dispute is included within the scope of this article.

f) Against judgments issued in collective dismissal matters, challenges to CBAs, challenges to trade union regulations, the protection of trade union freedom and other basic human rights and public freedoms.

2. The orders resolving a review appeal lodged against the decisions of Industrial Courts as a result of enforcing a judgment, provided that the enforceable decision was subject to an appeal for reversal, when significant issues are being resolved not disputed in the lawsuit, not decided in the judgment or that conflict with what is being enforced.

3. Rulings declaring the inapplicability of a request for abstention in relation to a matter which, further to this article, was unable to be subject to an appeal for reversal.

4. Rulings resolving a review appeal lodged against the resolution in which the Judge, right after presentation of the claim, declares himself/herself non-competent based on the subject matter.

5. Rulings and judgments issued by the mercantile courts in bankruptcy proceedings that resolve issues of a labour nature.

Article 190.[Petitions of the appeal]

1. In the event of several plaintiffs, or a counter-claimant defendant, the disputed amount, for the purposes of giving leave for appeal, shall be the largest amount claimed.

2. If the plaintiff were to make several petitions and to claim an amount in each, all of these shall be added to establish the amount.

Article 191.[Object]

The object of the appeal for reversal shall be:

a) To restore the proceedings to the state in which they were at the time of breach of the rules or procedural guarantees that led to unprotection.

b) To review the facts declared as proved, in light of the documentary and expert evidence conducted.

c) To examine any breach of material rules or case-law.

Article 192.[Terms and procedure]

1. An appeal for reversal must be announced within five days following notification of the judgment; it shall suffice for the party or its lawyer/representative to merely declare, upon notification of the judgment, of its wish to lodge the appeal. It may also be announced in a hearing or through a writ addressed by the parties, their lawyer/representative to the Court that issued the challenged resolution, within the foregoing term.

2. In judgments issued in Social Security matters which recognise a right in favour of the beneficiary to receive benefits, in order for the sanctioned party to appeal the decision to pay the benefits it must have deposited at the relevant General Social Security Treasury the amount of the benefits stated in the ruling, in order to make payment to the beneficiaries whilst the appeal is underway; to this effect, if shall provide the necessary receipt to the Court, which shall be included in the records in the Secretary's custody.

3. In the case described in the foregoing section and once the appeal is announced, the Judge shall issue an order to forward the matter to the Management Entity or Common Department in order to establish the pension amount to be paid. Once this communication is received, it shall be forwarded to the appellant so that, within a term of five days, it may make the necessary deposit at the General Social Security Treasury, subject to the warning that, otherwise, appeal proceedings shall end.

4. If the judgment were to sanction the Management Entity, it shall be released from the obligation to make the deposit described in point 2 above. However, when announcing the appeal, it must provide the Court with a certificate ascertaining that payment has commenced of the periodic benefits and that these shall promptly be paid throughout the appeal. If this payment is not effectively made, appeal proceedings shall end.

Article 193.[Particularities of the appeal for reversal]

1. If the resolution were able to be subject to an appeal for reversal and the party had announced the appeal in due time and form, including compliance with the other requirements established in this Act, the Judge shall deem the appeal as announced and shall agree to make the records available to the designated Lawyer so that, in the course of a hearing, he/she may take them over and lodge the appeal within en days following the end of the hearing. This term shall begin to run regardless of when the Lawyer were to collect the records made available.

2. If the challenged resolution were not able to be subject to an appeal for reversal; if the appellant breaches its duty to make a deposit or to secure the amount being claimed; or if the appeal were not announced in due time, the court shall declare the appeal as not announced in a reasoned ruling. The foregoing shall apply when the appeal is related to Social Security benefits and the requirements contained in the foregoing article are not fulfilled. Said order may be appealed through a complaint filed before the Chamber.

3. If the appellant has incurred defects or omissions consisting of not depositing or securing the amount being claimed, not presenting the deposit receipt referred to in Article 227 below, or not proving the due representation whereby the appeal is being announced, the Judge shall grant the party the time deemed necessary to provide the omitted documents or to remedy the defects discovered, up to a maximum of five days. If the foregoing is not carried out, an order shall be issued putting an end to the appeal, and the challenged judgment shall become final. Said order may be appealed through a complaint filed before the Chamber.

Article 194.[Writ of presentation of an appeal for reversal]

1. The writ to present an appeal for reversal shall be filed before the Court that issued the challenged resolution, including as many copies as there are parties subject to appeal.

2. The writ of appeal shall provide a sufficiently precise and clear indication of the reason(s) on which it is based, citing the rules of law or case-law allegedly breached. In any case, the applicability and reasoning of the grounds must be justified.

3. Sufficient information must also be provided to enable the identification of any documents or expert reports used as the grounds alleged for reviewing the proven facts.

Article 195.[Terms for an appeal for reversal]

If the appeal is lodged in due time and form or its defects/omissions are remedied, the Judge shall make a decision within a term of two days, forwarding the appeal to the party(ies) subject to appeal for a single common term of five days. Once this term has expired, regardless of whether or not writs of appeal have been filed, the records shall be forwarded to the Industrial Chamber of the High Court of Justice, together with the appeal and the writs, within the next two days.

Article 196.[Content of the writ of appeal]

The appellants and parties subject to appeal must indicate, in the writs of appeal and challenge to the appeal, an address for notification purposes within the jurisdiction of the Industrial Chamber of the High Court.

Article 197.[Remedy of defects]

After receiving the records, if the Chamber were to detect any defects or omissions that are remediable in the appeal, the party shall be granted the time deemed sufficient (up to a maximum of eight days) in which to provide the documents omitted or to remedy the defects detected. If the foregoing is not carried out, the Chamber shall issue an order declaring the non-applicability of the appeal and the non-appealable nature of the resolution challenged, returning the deposit made and forwarding the proceedings to the Court of origin. Only an extraordinary appeal may be lodged against this order.

Article 198.[Rules governing the hearing of the appellant]

1. Once the Magistrate delivering the main opinion his forwarded the records during a period of three days, it shall notify the Chamber of the appeal lodged and the Chamber may agree to reject it, after hearing the appellant, if the Chamber had already issued an unfavourable decision on the merits of the case in other appeals based on substantially similar circumstances.

2. The appellant's hearing shall follow these rules:

a) The Court, within five days following the date on which the Magistrate delivering the main opinion was forwarded the case, shall succinctly identify any equal court precedents that amount to constant case-law, as well as the legal precept(s) of reference that are applicable to these identical situations, and the reasons that justify the policy being adopted by the Chamber, all of which shall be notified to the appellant.

b) Within five days following the notification, the appellant shall present its allegations on the issues contained in the Chamber's resolution.

3. A resolution to reject the appeal must be issued on reasoned grounds within three days following the end of the hearing granted to the party, regardless of whether or not the allegations have been made. An extraordinary appeal may not be lodged against the unfavourable ruling, which shall be notified to the parties and to the Prosecutor's Office of the High Court of Justice.

4. The dismissal of the appeal shall entail the imposition of costs on the appellant, in the terms established herein, and the reimbursement of the deposit in the amount established and necessary for the purposes of the appeal, which shall take place whenever the ruling becomes final.

Article 199.[Acceptance of the appeal and judgment]

1. If the appeal is accepted, the Chamber shall deliver a judgment within a term of ten days, which shall be notified to the parties and to the Prosecutor's Office of the High Court of Justice.

2. As soon as the judgment becomes final, the Chamber shall return the records and any certificates of the judgment to the Court of origin, for enforcement purposes.

Article 200.[Overruling on the grounds of lack of protection]

If the instance resolution is overruled based on a breach of rules or procedural guarantees that led to a lack of protection, the Court, without examining the merits of the case, shall order that the records be restored to the state they were in at the time of the breach or, if the breach took place in the trial act, at the time the breach was notified.

Article 201.[Total overruling of the instance judgment]

1. If the Chamber overrules the instance judgment in full and the appellant has made a cash deposit of the amount claimed, or has secured said amount further to the provisions of this Act, including the deposit required in order to appeal, the ruling shall order the return of all consignments and deposits and the cancellation of all guarantees provided, once the judgment becomes final.

2. If the appeal for reversal is upheld and payment is ordered of an amount that is less than the resolution appealed, the ruling shall order the partial reimbursement of consignments, in the amount corresponding to the difference between both sanctions, as well as the partial cancellation of the guarantees provided, once the judgment becomes final.

3. In all cases where the appeal for reversal is partly upheld, the ruling shall order the full reimbursement of the deposit.

Article 202.[Consignment and bad faith]

1. If the Chamber upholds the judgment and the appellant has consigned the amounts referred to in this Act, the ruling shall order the loss of the consignments, which shall be correspondingly assigned when the judgment becomes final.

2. If the Judge has imposed on the party, who acted in bad faith or was manifestly reckless, the fine indicated in Article 97.3 above, the Chamber's judgment shall confirm or not confirm the fine, in whole or in part, in a reasoned manner, and shall also issue a decision, if the sanctioned party is the employer, on the Lawyer fees incurred in the appealed judgment.

3. If the appellant had secured the amount of the claim further to the provisions of this Act, in its favourable ruling it shall order the Chamber to maintain the guarantees provided until the sanctioned party complies with the judgment or until the enforcement of said guarantees is resolved upon in compliance with the judgment.

4. If the appellant provided the deposit required for the purposes of an appeal, the favourable judgment shall resolve on its loss, whenever the judgment becomes final.

CHAPTER III Cassation Appeals

Article 203.[Cassation Appeal]

1. The Fourth Chamber of the Supreme Court shall examine cassation appeals lodged against judgments delivered in a single instance by the Industrial Chamber of the High Courts of Justice and by the Industrial Chamber of the National Court ("*Audiencia Nacional*").

2. This appeal may be lodged against the resolutions and for the reasons specified in this Act.

Article 204.[Resolutions subject to appeal]

The following may be subject to an a cassation appeal:

One. Judgments issued in a single instance by the Chamber referred to in the foregoing article.

Two. Rulings resolving an extraordinary appeal brought against ruling issued by the Chamber when enforcing judgments, if resolving substantial issues not disputed in the lawsuit, not decided in the judgment or that contradict what is being enforced.

Third. Rulings resolving an extraordinary appeal brought against a resolution in which the Court, right after the filing of the claim, declares itself non-competent on the grounds of the subject matter.

Article 205.

A cassation appeal must be based on any of the following grounds:

a) If the court has acted *ultra vires.*

b) Non-competence or inadequacy of the proceedings.

c) A breach of the essential formalities of the lawsuit due to an infraction of the rules governing the judgment or procedural acts/guarantees, provided that, in the latter case, one of the parties has suffered a lack of defence.

d) A mistake in the examination of the evidence based on documents held in the records that prove the mistaken appreciation, if not refuted by other evidentiary components.

e) A breach of the rules of law or of the case-law that are applicable to resolve the issues being disputed.

Article 206.

1. A cassation appeal must be prepared within ten days following notification of the judgment; to deem the appeal as prepared a mere declaration by the parties or their Lawyer/representative shall suffice, upon notification of the judgment, of their wish to lodge the appeal.

2. The appeal may also be filed in a hearing or by means of a written document from the parties or their Lawyer/representative, within the foregoing term, before the Court that issued the resolution being challenged.

Article 207.

1. Once the appeal requirements are met, the Chamber shall deem the cassation appeal(s) as presented and shall summon the parties to appear in person or by means of a Lawyer or representative before the Industrial Chamber of the Supreme Court or

within fifteen business days, if domiciled in the Spanish Peninsula, or twenty days if domiciled outside the Peninsula, forwarding the records within five days following the summons.

2. If the challenged resolution were not subject to a cassation appeal, if the appellant breaches its duty to make a deposit or to secure the amount subject to the claim, or if the appeal were not prepared in due time, the Chamber, through a reasoned ruling, shall order the appeal as not filed. A complaint may be lodged against this ruling.

3. If the appellant has incurred remediable defects or omissions, the Chamber will grant it sufficient time in which to remedy the defects detected, up to a maximum of ten days. Otherwise, the Chamber shall issue a ruling putting an end to the appeal process and the challenged judgment shall become final. A complaint may be lodged against this ruling.

Article 208.

1. If the appellant appears before the Fourth Chamber in person or through a representative within the term established, it shall be considered a party to all intents and purposes.

2. The request for an *ex officio* Lawyer made by the appellant when filing the cassation appeal will release it from the obligation to appear before the Fourth Chamber, notwithstanding any further steps being processed with said Lawyer.

3. If an appellant not covered by the foregoing section allows the term granted for the summons to elapse without appearing before the Industrial Chamber, the latter shall declare the appeal void and redirect the proceedings to the Chamber of origin.

Article 209.

In the event of non-presentation of the powers of attorney that accredit the party's representation or of the receipt of the mandatory deposit, or if any defect is detected therein, the Chamber shall grant the party the term it deems appropriate, up to a maximum of ten days, in which to provide the omitted documents or to remedy the defects detected. If this is not carried out, the Chamber shall issue a ruling that rejects the appeal and declares the appealed resolution as final, returning the deposit made and forwarding the proceedings to the Chamber of origin. This ruling may only be subject to an extraordinary appeal.

Article 210.

Once the records are received by the Fourth Chamber, the latter shall proceed to deliver them to the Lawyer appointed by the appellant or designate *ex officio*, in order to file an appeal within a term of twenty days; regardless of when the records are collected, this term shall begin to run as of the date of notification that the records are available at the Chamber Secretariat.

Article 211.

1. After examining the records during three days, the Magistrate giving the main opinion shall inform the Chamber of the appeal lodged and the Chamber may agree to hear the appellant in relation to non-acceptance of the appeal.

2. Reasons for non-acceptance include a manifest and irremediable breach of the requirements to appeal, the lack of cassation of the claim, and the fact that other

appeals lodged in substantially similar cases were already rejected on the merits of the case.

3. The hearing in relation to non-acceptance of the appeal shall be processed by the party within three days following notification of the Chamber's resolution; the records shall be forwarded to the Public Prosecutor for a term of eight days, in order to give its report on the non-acceptance of all or some of the grounds of the appeal.

4. If the Chamber believes that one of the foregoing causes of non-acceptance is present, it shall issue a reasoned ruling within a term of three days, declaring the refusal of the appeal and the final nature of the resolution appealed, imposing all costs on the appellant within the terms established in this Act and returning the mandatory deposit for the appeal, without there being any appeal possible against this resolution. If refusal is not based on all the grounds alleged, this shall be declared by the Chamber in the reasoned ruling that is issued, likewise non-appealable, and the appeal shall continue its course in relation to those grounds not affected by the ruling of partial refusal.

Article 212.

1. If the appeal is accepted in whole or in part, the records shall be provided to the party/ies subject to appeal who appear in the lawsuit, for a term of ten days, so that they may issue a writ of challenge; regardless of when the records are collected, this term shall begin to run as of the date of notification that the records are available at the Chamber Secretariat.

2. If the Public Prosecutor were not a party to the lawsuit, the records shall be thereafter forwarded to it so that, within a term of ten days, it may declare the acceptance or refusal of the appeal of cassation.

3. Once the records are returned by the Public Prosecutor together with its report, the Chamber, if it deems this necessary, shall schedule a date and time for the hearing or, otherwise, for the voting and ruling; one or other of the foregoing must be held within the next ten days.

4. The Chamber shall deliver its judgment within a term of ten days, following the day after the end of the hearing or the voting.

Article 213.

If the appeal is upheld for all or some of its grounds, the Chamber, in a single judgment of cassation of the appealed resolution, shall issue a decision in law, based on the following:

a) If lack of jurisdiction is declared, or the non-competence or inadequacy of the proceedings, the judgment shall be annulled and the right shall remain to bring the relevant actions against the relevant parties or through the necessary proceedings.

b) If the procedural infringements foreseen in Article 205.c) herein are declared, an order shall be issued to restore the proceedings to the state and moment they were in when the offence was incurred, unless the breach took place during the hearing, in which case the proceedings shall be restored to the date of the hearing.

If the breach committed is related to the rules governing the judgment, the acceptance of the grounds shall oblige the Chamber to issue the corresponding decision in the terms in which the dispute is raised. If this is not feasible, due to insufficient information on the facts proven in the appealed resolution, the Chamber shall decree the nullity of said resolution and of the following procedural steps and shall order that they be restored to the time when judgment was delivered, in order to

remedy the defects ascertained and to enable the proceedings to follow their legal course.

c) If any of the other reasons included in Article 205 is accepted, the Chamber shall issue the relevant decision in the terms in which the dispute is raised.

Article 214.

1. As long as the cassation appeal is upheld, if the appellant had made a cash deposit for the amount of the claim or had secured it further to the provisions herein, and had established the necessary deposit for an appeal, the ruling shall order the return of all consignments and deposits and the cancellation of all guarantees provided.

2. If the cassation appeal is upheld and a lower amount is ordered than the one established in the resolution appealed, the ruling shall indicate the partial reimbursement of the deposits, in the amount corresponding to the difference between both rulings, as well as the partial cancellation of the guarantees provided.

3. In all events where a cassation appeal is partly upheld, the ruling shall order the return of the entire deposit.

Article 215.

If the appeal is rejected and the appellant had to make a cash deposit for the amount of the claim or secure the same and establish a deposit, the ruling shall order the loss of all deposits, as well as the need to maintain the guarantees provided until the judgment is enforced or the guarantees are executed and the deposit amount is lost, as the case may be.

CHAPTER IV Cassation appeals for the unification of doctrine

Article 216.

All judgments delivered in extraordinary appeals by the Industrial Chambers of the High Courts of Justice may be subject to a cassation appeal for the unification of doctrine.

Article 217.

The purpose of the appeal shall be to unify the doctrine derived from judgments delivered in extraordinary appeals by the Industrial Chambers of the High Courts of Justice, that conflict with each other or with the doctrine of other Chamber(s) in said High Courts, or with Supreme Court judgments, in relation to the same litigants or other litigants in the same situation where, on the merits of substantially identical facts, points of law and claims, different rulings were issued.

Article 218.

The appeal may be filed by any of the parties or by the Public Prosecutor within ten days following notification of the challenged judgment.

Article 219.

1. The appeal shall be filed by means of a writ addressed to the Industrial Chamber of the High Court of Justice that delivered judgment in the extraordinary appeal.

2. The writ shall be signed by a Lawyer and shall describe the will of the party to lodge an appeal, succinctly presenting the requirements established.

3. If the judgment delivered in an extraordinary appeal acknowledges a right to receive pensions and subsidies, the payments or certificates required for an extraordinary appeal must be provided further to Article 192 of this Act, in the manner established therein; the Industrial Chamber of the High Court of Justice shall be understood as having been informed of the details provided to the Court under said article.

Article 220.

Once the requirements to appeal have been met, the Chamber shall deem the appeal as filed and shall follow the steps established in Articles 207, 208 and 209 of this Act.

Article 221.

1. Within twenty days following the date of the summons, the party who filed the appeal shall present a writ of appeal before the Industrial Chamber of the Supreme Court. Otherwise, the Chamber shall issue a ruling putting an end to the appeal process.

2. Except in the case of a Lawyer appointed by the corresponding official roster, or a Lawyer freely appointed by the party after an unsuccessful *ex officio* appointment, the records need not be delivered to the appellant Lawyer in order to formalise the appeal, unless the latter so expressly requests, without this request affecting the course of the appeal process.

Article 222.

The writ of appeal shall contain an accurate and reasoned description of the case alleged, providing certificates of the contrary judgment(s) and explaining the legal breach committed in the challenged judgment, as well as the detriment to a unified doctrine of legal interpretation and the case-law. The omission to provide a certificate of the contrary judgment(s) must be remedied within a term of ten days, unless the party confirms that it made a request in due time and was not issued the certificate, in which case the Fourth Chamber of the Supreme Court shall make an *ex officio* request.

Article 223.

1. If the party has manifestly and irremediably breached the procedural requirements to appeal, or if the claim lacks any cassation content, the Magistrate delivering the main opinion shall notify the Chamber within three days of the existing cause of refusal and the Chamber shall proceed to hear the appellant in relation to said refusal; the hearing shall also be held within a three-day term. If the Public Prosecutor did not lodge the appeal, it shall be forwarded the records in order to provide an opinion on the refusal of the appeal within a term of eight days.

2. If the Chamber believes that any of the aforementioned causes of refusal applies, it shall issue a reasoned ruling within a term of three days, declaring the non-

acceptance and final nature of the appealed resolution and imposing all the costs incurred on the appellant, in the terms established herein. No appeal may be lodged against this ruling. If applicable, the ruling of non-acceptance shall entail the loss of the deposit made, and the consignments and guarantees provided shall be given their corresponding use according to the judgment issued in the extraordinary appeal.

3. If the Chamber believes that the purpose of the appeal was to delay the proceedings, it may also impose a monetary sanction on the appellant up to a maximum of 150,000 pesetas.

4. For the ordinary processing and resolution of the non-acceptance of this appeal, the Chamber shall act with three member Magistrates.

Article 224.

1. If the appeal is upheld, the Chamber shall forward the writ of appeal to the party/ies that appeared in the proceedings, in order to make their challenge within a term of ten days; regardless of when the documents are collected, this term shall begin to run as of the date of notification that the records are available at the Chamber Secretariat.

2. If the Public Prosecutor is not the appellant, the records shall be thereafter forwarded to it so that, within a term of ten days, it may issue its opinion on the relevance or non-acceptance of the potential cassation appeal.

Article 225.

1. Once the records are returned by the Public Prosecutor together with its report, the Chamber shall schedule a date within the next ten days for the voting and ruling. The judgment must be delivered within a term of ten days as of the day after the voting is held.

2. If deemed advisable based on the significance or complexity of the matter, the Chairman or majority of the Chamber may agree that the Chamber include five member Magistrates.

Article 226.

1. Any decisions issued by the Fourth Chamber of the Supreme Court in these appeals may never affect the legal situations created by the resolutions issued earlier in time to the challenged decision.

2. If the Supreme Court judgment declares that the appealed judgment breaches the principle of unified doctrine, it shall overrule and nullify the judgment and resolve the dispute raised in the extraordinary appeal, issuing decisions that conform to the unification of doctrine and covering the specific legal situations raised by the challenged judgment. The judgment delivered by the Industrial Chamber of the Supreme Court shall resolve as necessary in relation to consignments, guarantees, costs, fees and fine, if any, derived from the extraordinary appeal further to the provisions of this Act. If no deposit was made to appeal, the amount thereof shall be returned.

3. An unfavourable judgment ruling that the appealed judgment's doctrine is acceptable shall entail the loss of the appeal deposit. The ruling shall order the cancellation or maintenance of the consignments or guarantees provided, according to the relevant decisions.

CHAPTER V Common provisions for appeals for reversal and cassation appeals

Article 227.

1. Anybody who is not a worker or assignee thereof or a beneficiary of the Social Security public system and who attempts to file an appeal for reversal or cassation appeal, shall consign the following deposit:

a) 25,000 pesetas, in the case of an appeal for reversal.

b) 50,000 pesetas, in the case of a cassation appeal (including appeals lodged for the unification of doctrine).

2. All deposits shall be made at the corresponding bank and the appellant shall deliver the confirmation slip to the Court's Secretariat, at the time it files the appeal for reversal, or at the Chamber's Secretariat whenever it appears before the court.

If these deposits are not made as indicated above, the provisions established in this Act and other relevant articles shall apply.

3. All lost deposits, as ordered by a court judgment, shall be deposited at the Public Treasury.

4. The State, Autonomous Communities, Local Entities, autonomous Bodies dependant on the foregoing and whoever is entitled to a pro bono defence shall not be obliged to make the foregoing deposit and any other appeal consignments required in this Act.

Article 228.

If the challenged judgment imposed the payment of an amount, the appellant who is not entitled to pro bono defence, when announcing the appeal for reversal or preparing the cassation appeal, must have deposited at the relevant credit entity and at the "Deposits and Consignments Account" held by the Instance Court or Chamber, the amount subject to the claim; a cash deposit may be replaced with a guarantee by bank deposit, where the joint and several liability of the guarantor shall be stated. The receipt of a cash deposit or guarantee document, as the case may be, shall be safeguarded by the Secretary, who shall issue an affidavit to be attached to the proceedings and shall provide the necessary receipt.

Article 229.

1. If an appeal for reversal is lodged, a Lawyer shall be appointed before the Court upon its announcement. A cassation appeal, whether ordinary or for the unification of doctrine, shall be made before the Industrial Chamber of origin if verified within the term established for the appeal or before the Industrial Chamber of the Supreme Court during the term established for the summons.

2. The appointment may be made in a hearing or in writing. In the latter case, and if a notarial power of attorney is not provided, there will be no need for personal ratification.

3. If a representative is not expressly appointed, it shall be understood that the Lawyer is also in charge of representing the defended party.

4. If the appellant does not expressly appoint a Lawyer, if he/she is a worker o an employer entitled to a pro bono defence, the Court shall appoint a lawyer *ex officio* on the day after the end of the term in which to announce the appeal, or the Fourth

Chamber of the Supreme Court shall do so during the day after the end of the term for the summons.

Article 230.

1. If the appellant Lawyer was appointed *ex officio*, he/she shall be provided with the records in order to file the appeal for reversal or cassation appeal within a term of ten or twenty days, respectively. These terms shall begin to run as of the date he/she is notified that the records are available at the Secretariat.

2. If the *ex officio* counsel for the defence deems the appeal unnecessary, he/she may state this in writing without having to justify this opinion, within a term of three days. During the next two days, a new Lawyer shall be appointed and if he/she were to share the former's opinion, to be stated in the foregoing manner and term, the party shall be notified of the outcome so that, within the next three days, it may appoint, if it so wishes, a Lawyer of its own choice in order to formalise the appeal within the legal term provided. The party shall notify the appointed Lawyer to the Court or Chamber within this same term of three days, and the latter shall proceed to deliver the records to the appointed individual, in the manner established in the previous section. Otherwise, this shall put an end to the appeal process.

3. The *ex officio* Lawyer who does not return the records within the aforementioned three-day term, declaring his/her opinion that the appeal is inapplicable, will be obliged to file the appeal within the term legally established.

Article 231.

1. The Chamber will not allow the parties to present any document or claimed fact that is not included in the records. Nevertheless, if the appellant presents any of the documents included in Article 506 of the Civil Procedure Act or a writ that contains sufficient means of judgment to avoid the breach of a basic human right, the Chamber, after hearing the other party within a term of three days, shall issue the corresponding decision in the next two days in a reasoned ruling which may not be subject to an extraordinary appeal.

2. The step referred to in the foregoing section shall interrupt any other, if applicable, that is initiated by the Chamber in relation to non-acceptance of the appeal.

Article 232.

1. Before the scheduled date for the voting/ruling or the trial, the Chamber may agree, *ex officio* or at the party's request, to join the appeals underway in relation to the same object and with one of the same parties. Before issuing a decision on the joinder, the Chamber shall hear the parties that appear in the proceedings in relation to the appeals to the joined, within a single and common term of five days. The hearing shall examine whether or not there is objective similarity.

2. The Magistrate delivering the main opinion in the joined appeals shall be the one first appointed in said appeals and, if the date is the same, the closest one in time.

3. The Chamber's resolution on the joinder shall be issued in a reasoned ruling.

Article 233.

1. The Judgment shall impose all costs on the party defeated in the appeal, unless it is entitled to a pro bono defence. The costs shall include the fees of the Lawyer of the other side who intervened in the appeal; said fees may not exceed 100,000 pesetas in appeals for reversal and 150,000 pesetas in cassation appeals.

2. The rule established in the foregoing section shall not apply in collective dismissal proceedings, where each party shall bear the costs individually incurred. Nevertheless, the Chamber may impose the payment of costs on any party whose conduct in the appeal indicated recklessness.

CHAPTER VI Review appeals

Any judgment delivered by the courts of the industrial jurisdiction may be subject to a review appeal further to the Civil Procedure Act (RCL 2000, 34, 962). The appeal shall be lodged before the Industrial Chamber of the Supreme Court, which must issue a resolution pursuant to the provisions of the Civil Procedure Act; nevertheless, the amount of the appeal deposit shall be the one indicated in this Act for cassation appeals.

BOOK IV ENFORCEMENT OF JUDGMENTS

TITLE I Final enforcement

CHAPTER I General provisions

Article 235.

1. Final judgments shall be put into effect in the manner established in the Civil Procedure Act (RCL 2000, 34, 962) for the enforcement of judgments, with the particularities foreseen in this Act.

2. Enforcement shall be carried out by the court that examined the matter at the instance stage. If no court intervened in the incorporation of the title, the Court included in the jurisdiction where it was incorporated shall be competent.

3. If there is a joinder of enforcements and if the enforcement is exclusively attributed to certain Industrial Courts within the same jurisdiction, their specific regulations shall apply.

4. If there are several Industrial Courts, the enforcement may be exclusively assumed by certain Courts within the same jurisdiction, in the terms foreseen in the Organic Act of the Judiciary (RCL 1985, 1578 and 2635), excluding the total or partial distribution of other matters.

5. In the case of a bankruptcy, the provisions of the Bankruptcy Act shall apply.

Article 236.

Any incidental issues that are included in the enforcement process shall entail a hearing of the parties, within a term of five days, who may allege and prove whatever they may be entitled to at law; the final ruling shall be issued within a term of three days.

Article 237.

1. The enforcement of final judgments shall be initiated at a party's request, except for judgments delivered in *ex officio* proceedings, which shall be enforced *ex officio*.

2. Once enforcement is applied for, the process shall be executed *ex officio* and the necessary resolutions and steps shall be issued.

Article 238.

Those who are not indicated as being creditors or debtors in the enforcement title, or were not declared successors of one or the others, and who claim a legitimate and personal right or interest that may be affected by the attempted execution, shall be entitled to intervene in equal terms with the parties in the corresponding acts.

Article 239.

1. The enforcement shall take place in the same terms established in the judgment.

2. The party who is duly notified and allows the term granted to unjustifiably elapse, without carrying out what was ordered, and insofar as it does not fulfil or verify the impossibility of specific compliance, the Court or Tribunal, in order to obtain and ensure the fulfilment of the obligation to be enforced, after hearing the parties, may impose pecuniary collection proceedings in the case of enforcement of obligations to give, do or not to do, or to obtain the fulfilment of legal obligations imposed in a court resolution. When determining the amount of these collection proceedings their purpose shall be taken into account, as well as the reluctance to fulfil the order and the solvency of the sanctioned party; said collection proceedings may be modified or rendered null and void in light of the subsequent conduct and justification provided by the party subject to collection in relation to these issues. The amount determined, to be deposited at the Treasury, may not exceed, for each day of delay in compliance, the maximum established for fines in the Criminal Code (RCL 1995, 3170 and RCL 1996, 777) in relation to the punishment for offences.

3. Likewise and following the same steps, the court may impose coercive fines on those who, without being a party in enforcement proceedings, unjustifiably breach the orders given to them to duly and fully execute the decision or to obtain compliance with the legal obligations imposed in a court resolution.

Article 240.

The judgment may be partly enforced, even if it has been subject to appeal, in relation to the declarations therein not subject to challenge.

Article 241.

1. Notwithstanding the provisions of Article 277, the term in which to apply for enforcement shall be the one established in material laws for the exercise of an action to obtain recognition of the right to be enforced. This term shall operate as a statute of limitations to all intents and purposes.

2. In any case, the term in which to demand compliance with obligations to pay a sum of money shall be one year. Nevertheless, in the case of payment of periodic Social Security benefits, the term in which to apply for enforcement shall be the one established in material laws for the exercise of the action to obtain recognition of the right to the benefit in question, or will be indefinite if the right were declared as such in the law.

If the Management or Cooperating Social Security Entity it had proceeded, further to Article 126 of the Revised Text of the General Social Security Act (RCL 1994, 1825), to pay the economic benefits for which the employer is declared liable, it may apply for enforcement of the judgment in the aforementioned terms, to run as of the date of payment by the Entity that anticipated the benefit.

3. Once enforcement proceedings are initiated, the term shall not be interrupted until the obligation being enforced is fully complied with, even if the proceedings were shelved due to a declaration of provisional insolvency of the party subject to enforcement.

Article 242.

1. Enforcement proceedings may only be suspended in the following cases:

a) If established by law.

b) At the enforcing party's request, unless the enforcement is derived from an *ex officio* lawsuit.

2. Once the process is suspended or paralysed at the request of or for reasons attributable to the enforcing party, and if one month elapses without an application being made for continuance, the court shall request the enforcing party to declare, within five days, whether the enforcement should proceed and to request what it may be entitled to at law, subject to the warning that if this last term elapses the proceedings shall be provisionally shelved.

Article 243.

1. If immediate compliance with the obligation being enforced could cause damages to the workers subject to the enforcement that are disproportionate in relation to those the enforcing party would suffer in the event of defective fulfilment, due to clearly endangering the continuity of the employment relations existing in the debtor company, the enforcing court, after hearing the interested parties and in the conditions established, may grant a deferral for the time that is essential.

2. A breach of the conditions established will entail the loss of the benefit granted, without requiring any express declaration or prior request.

Article 244.

1. Except in those cases expressly foreseen by law, any resolutions issued in enforcement proceedings shall be executed notwithstanding any challenge thereto and a deposit will not be necessary to subject them to appeal.

2. Nevertheless, the enforcing court, during a term of one month, which may be extended in exceptions for a further month, may provisionally suspend, with or without requesting a deposit, the execution of the enforcement acts that could cause irreparable damage. A Chamber examining the appeal filed against the resolutions of the enforcing court shall be likewise entitled, for the duration of the appeal.

3. Suspension or refusal may be modified according to subsequent circumstances or events that could not be known at the time a decision was issued to suspend.

Article 245.

Any arrangement or waiver of the rights acknowledged by judgments issued in favour of the worker is hereby forbidden.

CHAPTER II Monetary enforcements

Section 1. General rules

Article 246.

1. In the case of co-existing attachments decreed by courts of the industrial jurisdiction over the same assets, the order of preference in collection proceedings, notwithstanding the provisions of this Act for cases of joined enforcements, shall be granted to the court that first attached the assets.

Nevertheless, the party subsequently ordering the attachment may continue with the collection proceedings if the rights of the prior attachments are secured.

2. The foregoing rule shall not affect the marshalling of credits amongst several creditors.

3. In the event of a bankruptcy, any enforcement actions brought by the workers to collect outstanding salaries shall be subject to the provisions of the Bankruptcy Act.

Article 247.

1. The enforced party, at the request of the court, must make a declaration on its assets or rights, with the necessary details to guarantee its responsibilities. Furthermore, it shall point out the parties that hold any rights whatsoever over its assets and, if subject to another lawsuit, it shall provide any details of interest to the enforcement process.

2. In the case of legal entities, this obligation shall bind the directors or their legal representatives; in the case of asset communities or groups without legal status, the parties indicated as the sponsors, administrators or managers.

3. If the assets are encumbered with *in rem* encumbrances, the enforced party must declare the amount of the guaranteed credit and any outstanding amount at the time, as the case may be.

This information may also be requested from the holder of the secured credit, *ex officio* or at the request of a party or interested third party.

Article 248.

1. In the absence of information on the existence of sufficient assets, the court shall address the relevant bodies and public registries so that they may provide a list of all assets or rights of the debtor of which they are aware, after making any legally feasible investigations, as the case may be.

2. The court, within the scope of the right to individual privacy, may also address or collect the necessary information, to ensure the effectiveness of the pecuniary obligation being enforced, from financial or depository entities or from other individuals who, as a result of their ordinary activity or legal relations with the enforced party, should be aware of the latter's assets or rights or could eventually become debtors thereof.

Article 249.

Unless otherwise established with sufficient reasoning, the amount for which the enforcement is being processed as provisional default interest and legal costs may not exceed, in relation to the former, the interest that would accrue in a year; in relation to legal costs, 10% of the amount being enforced as principal.

Article 250.

Once the amount being enforced is covered, the proceedings resolving on the enforcement or other decisions ordering attachments shall be notified to the representatives of the workers of the debtor company in order to enable their intervention in the lawsuit.

Article 251.

1. The Salary Guarantee Fund and the Management Entities or Common Departments of the Social Security, if entitled to act as a party in the proceedings, are obliged to undertake the deposit, administration, intervention or appraisal of the attached assets, appointing a suitable person for this purpose from the time they are requested by the court. They may be exempted from this obligation if authorised by the court, provided that they justify the impossibility of fulfilling the obligation or its disproportionately burdensome nature.

2. The same obligation, subject to the same limits, may be imposed, if sufficiently justified, on any individual or Entity that may undertake the obligation as a result of their activity and resources, notwithstanding the reimbursement of expenses and the payment of relevant remuneration pursuant to law.

3. Material proceedings regarding the deposit, maintenance, transportation, administration and advertising for sale of judicially attached assets may be entrusted to entities with an administrative permit for this purpose, if so agreed by the court.

Section 2. Embargoes

Article 252.

If the existence of sufficient assets is ascertained, the embargo decreed shall adjust to the legally established system. Otherwise, and in order to ensure the effectiveness of the court resolution being enforced, the corresponding adjustment to law shall be carried out once said assets are identified.

Article 253.

1. If the embargoed assets are real estate or other assets registrable at public registries, the court shall issue an *ex officio* order to have a request issued and directly sent to the Registrar to make the corresponding entry related to the embargo, after issuing a certificate of the embargo, of ownership of the assets and of any charges and encumbrances.

2. The Registrar shall inform the court of any subsequent entries that may affect the embargo recorded.

Article 254.

1. Receivers or court administrators may be appointed if this were necessary due to the nature of the assets or rights embargoed.

2. To this effect, the court shall summon the parties to a hearing in order to reach an agreement or, if applicable, to make the allegations and present the evidence they deem appropriate regarding whether or not it is necessary to appoint a receiver or administrator, an individual to hold such post, to demand a deposit, the way in which to proceed, the rendering of accounts and relevant payment.

3. The administrator or receiver, as the case may be, must render final accounts of their activity.

Article 255.

The enforcing or enforced party may be appointed depository, unless otherwise challenged by the other side with sufficient reasoning. The court may also approve the appointment of a third party as depository, if jointly agreed by or at the proposal of one of the parties, if not challenged by the other side with sufficient reasoning.

Article 256.

1. If the assets were previously embargoed, the court issuing a new embargo shall adopt the necessary measures to ensure it is effective.

2. The judicial or administrative body to which the new embargo is notified shall issue the relevant decision to secure it and, in a maximum of ten days, will inform the party decreeing the new embargo of the circumstances and value of the assets, of the amount being enforced and covered by the assets, and of the stage of its proceedings.

3. It shall also notify the body that decreed the new embargo of any subsequent resolutions that could affect the creditors subject to the new embargo.

Article 257.

1. The court, after issuing a positive decree of embargo, shall ratify or modify the decision of the Executive Committee, adopting, as the case may be, the necessary guarantees to secure the attachment according to the nature of the embargoed assets.

2. It may also, at any time, after covering the sufficiency of the embargoed assets, agree to improve, reduce or lift the attached embargoes.

Article 258.

1. Any third party alleging title over the embargoed assets, acquired prior to their attachment, may request the lifting of the embargo before the court in the industrial jurisdiction that examined the enforcement proceedings, which shall issue a resolution on the alleged right for the mere purposes of preliminary court proceedings, lifting the embargo as need be.

2. The request, which shall include the title on which the claim is based, shall be presented by the third party at least fifteen days prior to the date scheduled for the first auction.

3. After the application is accepted, the incidental proceedings regulated in this Act shall be followed. The court shall only suspend the proceedings regarding the settlement of the disputed assets until the incident is resolved.

Section 3. Realization of embargoed assets

Article 259.

1. If it were necessary to appraise the embargoed assets before their realization, the court shall assign the corresponding appraiser from amongst those providing their service to the Administration of Justice. Otherwise or furthermore, it may request that a suitable person be appointed by the entities that are legally obliged to undertake the appraisal.

2. The appointment made shall be notified to the parties or third parties with acknowledged rights over the assets to be appraised so that, during day two, they may assign others, subject to the warning that, unless another appointment is made, they shall be deemed as in acceptance.

Article 260.

If the assets or rights embargoed were attached with charges or encumbrances that are to survive the sale or court award, the Secretary, with the experts' cooperation and collecting the necessary data, shall appraise said charges and deduct their value from the actual asset value, in order to determine the fair value.

Article 261.

1. In order to settle the embargoed assets, the following procedures may be followed:

a) A sale at an entity holding an administrative permit for such purpose, if decided by the court and regardless of the value of the assets.

b) In an action before a public notary, in the terms established in applicable regulations.

c) In a court auction, if the foregoing procedures are not used.

2. If securities are embargoed, they shall be sold in the manner provided in the Civil Procedure Act (RCL 2000, 34, 962).

3. In order to render it more effective, the sale of the assets may be carried out by lots or units.

Article 262.

The realization of embargoed assets in a court auction shall follow the provisions established in civil procedure law, under the following forms:

a) The third auction shall not allow bids that are less than 25% of the fair value of the assets. If a bidder were to offer a higher sum, the highest bid shall be approved.

b) If the third auction is declared void, the enforcing parties or, if these are not available, the legal managers subject to joint and several or subsidiary liability, shall be entitled to self-award the assets, for 25% of the assessment, for which they will be granted a common term of ten days. If this right is not exercised, the embargo shall be lifted.

Article 263.

If the purchase at an auction or the payment award is carried out in favour of part of the enforcing parties and the awarded price is insufficient to cover the credits of all the remaining creditors, the awardees' creditors shall only be settled up to the sum they would be entitled to in the proportional distribution over the awarded price. If lower than the price, the awardee creditors must pay the excess in cash.

Article 264.

Only a purchase or award made in favour of the enforcing parties or of the legal managers, subject to joint and several or subsidiary liability, may be carried out as an assignment to a third party.

Article 265.

1. The order of award need not be documented in a public deed.

2. In order to register the order of award, an affidavit issued by the Secretary of the Court or Tribunal shall suffice, including the order and the necessary verification details.

Section 4. Payment to creditors

Article 266.

1. Any amounts obtained in favour of the enforcing parties shall be applied, in order, to the payment of principal, interest and costs, after settlement and the necessary appraisal.

2. If previously agreed by the court, payment of the expenses that may necessarily derive from the enforcement itself may be paid before the principal, as well as the payment of third party borrowers who were obliged to collaborate with the court.

Article 267.

1. Once the amount subject to the enforced collection proceedings is paid as principal, the Secretary shall issue a certificate of settlement of the interest accrued.

2. Interest may be settled at the same time as the appraisal of the costs and in the certificate itself. If both operations are challenged, the proceedings may be joined.

3. The fees or rights of Lawyers, including the Public Administration, Court Attorneys and registered Labour Counsellors accrued during the enforcement may be included in the appraisal of costs.

Article 268.

In the event of a joinder of enforcement actions brought against the same debtor, and if the embargoed assets are insufficient to cover all the labour credits, rules of proportionality shall be followed, upholding in any case the credit marshalling established by law.

Article 269.

1. In the case of co-existing credits of equal rank, the amounts obtained shall be proportionally distributed, without taking any priority date into account.

2. If the amounts obtained are insufficient to cover all the credits, the following shall apply:

a) If none of the co-existing creditors alleges any priority payment, the court shall proportionally distribute the amounts as they are gradually obtained.

b) If any of these creditors claims priority, the creditors may present a common distribution proposal, or they may be required to do so, within the term provided.

3. If the proposals are not presented or do not coincide, the court, within a term of five days, shall issue an order provisionally establishing the distribution criteria and ordering the Secretary to correspondingly execute a certificate of distribution, specifying the amounts allocated to each creditor.

Article 270.

1. The common proposal or proposal made by the Court or Tribunal shall be forwarded, if applicable, to any non-proposing creditors, to the party subject to enforcement and to the Salary Guarantee Fund, in order to declare their conformity or non-conformity within a term of three days.

2. If no challenge is made, the court shall approve the common proposal made or the distribution certificate executed shall be deemed final. If a proposal is made, all the interested parties shall be summoned to a hearing and the writs presented shall be provided.

Article 271.

1. If at the hearing a distribution agreement is reached, it may be approved in the same act. Any interested parties who do not appear for unjustified reasons shall be deemed as in acceptance with what is agreed by the intervening parties.

2. If no agreement is reached, the proceedings shall continue and allegations and evidence shall be conducted regarding the existence or survival of the priorities invoked. A ruling shall resolve the issues raised and the form of distribution.

Article 272.

Those who hold the status of enforcing parties in joined proceedings, with a final ruling ordering enforcement in their favour, until the time the amounts to be allocated are obtained, may participate in the proportional distribution.

Article 273.

1. Proceedings based on a the right of a third party who may or may not be a labour creditor of the enforced party, filed for payment of the third party credit before the enforcing creditors, must be presented before the court of the industrial jurisdiction that is examining the enforcement, and shall be processed through the incidental proceedings foreseen in this Act.

2. Third party proceedings initiated in this way shall not suspend the enforcement processed, which shall continue until the sale of the embargoed assets; the corresponding amount shall be deposited at the relevant credit entity.

Section 5. Employer's insolvency

Article 274.

1. Before the declaration of insolvency, the Salary Guarantee Fund shall be summoned to a hearing if not previously called, for a maximum term of fifteen days, in order to conduct the steps it deems appropriate at law and to identify the assets of the main debtor of which it is aware.

2. Within thirty days following the steps executed by the Salary Guarantee Fund, the court shall issue a ruling ordering, as applicable, the total or partial insolvency of the enforced party, establishing as necessary the appraised value given to the attached assets. The insolvency shall be deemed provisional to all intents and purposes until sufficient assets of the enforced party are identified or the attached assets are realized.

3. Once a company is declared insolvent by the court, this shall be sufficient to deem it existing in other collection proceedings; the insolvency order may be issued

without having to reinitiate the asset investigation steps established in Article 248 herein, although in any case the plaintiff and the Salary Guarantee Fund must be previously heard in order to indicate the existence of new assets.

4. If the amounts legally charged to the Salary Guarantee Fund are indicated in the enforcement judgment, and the declaration of insolvency is final, it shall be requested to make payment within a term of ten days and, in the event of non-payment, collection proceedings shall continue.

5. The declaration of insolvency of the enforced party shall be published in the "Official Gazette of the Mercantile Registry".

Article 275.

1. Whenever the assets subject to an embargo are attached to the production process of the debtor company and the latter continues its business, the Salary Guarantee Fund may apply for suspension of collection proceedings, for a term of thirty days, in order to assess the unfeasibility of settling the labour credits and the effects of the court's disposal of the embargoed assets over the continuity of the labour relations remaining in the debtor company.

2. Once the Salary Guarantee Fund has ascertained the unfeasibility of settling the labour credits, due to the subsequent termination of any remaining labour relations, it shall notify this in a reasoned manner, requesting the declaration of insolvency for the sole purpose of acknowledging salary guarantee benefits.

CHAPTER III Enforcement of final dismissal judgments

Article 276.

If the employer has decided to reinstate the worker, it shall send the corresponding notification in writing within ten days following notification of the judgment, informing him/her of the date of reinstatement, in order to return to work at least three days after receipt of the notice. In this case, the employer shall bear the salary accrued since the notification of the initial judgment declaring the unfairness of the dismissal until the judgment declaring the reinstatement, unless this were unable to be executed within the term provided for reasons attributable to the worker.

Article 277.

1. If the employer does not reinstate the worker, he/she may demand that the ruling be enforced before the Industrial Court:

a) Within twenty days following the date scheduled for the reinstatement, if the latter is not carried out.

b) Within twenty days following the end of the ten-day term referred to in the previous article, when no date is scheduled for reinitiating the labour relationship.

c) Within twenty days following the date of reinstatement, if deemed irregular.

2. Nevertheless and notwithstanding the accrual of salary corresponding to the days elapsed between the end of each of the terms indicated in sections a), b) and c) and the date when enforcement of the ruling is requested, the action for enforcement must be brought within three months after the judgment becomes final.

3. All the terms established in this article shall act as statutes of limitation.

Article 278.

Once enforcement of the ruling is applied for, the Judge shall summon the parties to a hearing within the next four days. On the hearing date, if the interested parties were duly summoned and the worker or his/her representative does not appear, the worker shall be deemed as waiving his/her request; if the employer or its representative do not appear, the hearing shall be held without its presence.

Article 279.

1. At the hearing, the party/ies who intervene shall be interrogated by the Judge on the facts regarding the non-reinstatement or irregular reinstatement alleged; only that evidence may be provided which the Judge deems applicable and which may be executed right then. The corresponding certificate shall be issued of the steps taken.

2. Within the next three days, the Judge shall issue a ruling whereby, unless neither of the circumstances alleged by the enforcing party is upheld:

a) The employment relationship shall be declared as terminated at the date of the judgment.

b) An order shall be made to pay the worker the indemnification referred to in Article 110.1 above. In light of the circumstances and the damage caused as a result of non-reinstatement or irregular reinstatement, the court may establish an additional indemnification of up to fifteen days' salary per year of service and a maximum of twelve monthly payments. In either case, the periods of time shorter than a year shall be calculated proportionately and the time elapsed until the date of the ruling shall be taken into account to calculate the time of service.

c) The employer shall be ordered to pay the salary not paid since the date of notification of the initial judgment declaring the unfair dismissal until the judgment that resolves the issue.

Article 280.

1. The judgment shall be enforced in its own terms when:

a) The worker dismissed is a staff representative, member of a works council or trade union representative, who, after an unfair dismissal is declared, had chosen to be reinstated.

b) It declares the dismissal null and void.

2. To this effect, in either of the events described above, the Judge, once an application for reinstatement is made, shall request that the employer reinstate the worker into his/her work post within three days, notwithstanding the measures that may be adopted by a party further to Article 282.

Article 281.

1. In the events referred to in the foregoing article, if the employer does not reinstate the worker or reinstatement is made in conditions other than those in existence before the dismissal, the worker may address the Industrial Court and request an enforcement of the ruling within twenty days after the third day which, as the maximum term for reinstatement, is provided in the foregoing article.

2. The Judge shall interrogate the parties in a hearing, which shall follow the provisions established in Article 278 and Article 279.1, and shall issue a ruling on whether or not the reinstatement took place and, if so, if it was duly carried out. If the

court considers that the reinstatement did not take place or was irregularly carried out, it shall order that the worker be reinstated in his/her work post within five days following the date of the resolution, warning the employer that if reinstatement is not made or is unduly carried out the measures established in the following article shall be adopted.

Article 282.

If the employer does not fulfil the reinstatement order referred to in the foregoing article, the Judge shall take the following measures:

a) The worker shall continue receiving his/her salary with the same frequency and in the same amount established in the judgment, including any increases that apply until the date of due reinstatement by virtue of a CBA or state law. To this effect, the Judge shall order the enforcement, as many times as necessary, in an amount equivalent to six months' salary; any remuneration accrued shall be paid to the worker against this amount until, once reinstatement is duly carried out, the balance existing at the time is reimbursed to the employer.

b) The worker shall continue to be registered and holding membership/contribution status in the Social Security system, and this shall be notified to the Management Entity for the necessary purposes.

c) The staff representative, Works Council member or trade union representative shall continue to carry out the duties and activities inherent to his/her post, within the company; the employer shall be warned that if this activity is prevented or hindered, the facts shall be notified to the labour authority in order to sanction the employer's conduct further to the provisions established in Article 97 of the Revised Text of the Workers' Statute (RCL 1995, 997).

Article 283.

1. In the event of a final decision declaring the termination of the employment contract, if the employee is living in a house by virtue of said contract he/she must vacate the house within a month. If there are justified reasons, the court may extend this term for two more months.

2. Once the deadlines indicated in the foregoing section have expired, the employer may request an enforcement through the corresponding eviction, which shall be carried out thereafter further to the rules foreseen in the Civil Procedure Act.

Article 284.

Notwithstanding the provisions of the foregoing articles, if the unfeasibility of reinstating the worker is ascertained, based on the cessation or closure of the obliged Company, the Judge shall issue a ruling declaring the termination of the employment relationship at the date of such decision and shall order payment to the worker of any indemnification and salary not paid as per Article 279.2 herein.

CHAPTER IV *Enforcement of judgments vis-à-vis Public Bodies*

Article 285.

1. In enforcement proceedings brought against the State, Management Entities or Common Departments of the Social Security system and other public bodies, and insofar as the judgment is not enforced in full, the court, *ex officio* or at a party's

request, shall adopt any measures that are necessary to initiate and execute the enforcement.

2. To this effect, after notifying the sanctioned Administration and summoning the parties to a hearing, as the case may be, it may resolve as many issues are raised in the enforcement proceedings, including the following in particular:

a) Administrative body and civil servants in charge of taking the steps.

b) The maximum term for fulfilment, in light of the circumstances.

c) Means with which to execute enforcement and the procedure to be followed.

d) The necessary measures to achieve the effectiveness of the order, in the terms established herein, except for the provisions of Article 239 which shall not apply.

Article 286.

1. In proceedings brought on the grounds of periodic payments of Social Security benefits, once the judgment ordering the constitution of capital becomes final, the Court shall send a certified copy to the relevant Management Entity or Common Department.

2. Within a maximum term of ten days, said Body shall notify the Court of the capital amount to be deposited, which shall be notified to the parties, and the sanctioned party shall be ordered to make the deposit within ten days.

TITLE II PROVISIONAL ENFORCEMENT

CHAPTER I Judgments ordering the payment of amounts

Article 287.

1. If the worker is the subject of a favourable judgment ordering the employer to pay and amount and lodges and appeal, he/she shall be entitled to advance payments on account of said amount; the State shall guarantee the reimbursement thereof and shall pay the amount, if necessary, in the terms established in this Act.

2. The early payment shall be a total maximum of 50% of the amount declared in the judgment and may be paid in provisional instalments throughout the processing of the appeal, between the application date and until a final judgment is delivered or the appealed judgment becomes final for any reason.

3. Each year, the amount may not exceed double the minimum salary provided by law for workers over eighteen, including the proportional amount of extraordinary bonuses that is applicable during accrual.

Article 288.

1. Provisional enforcement may be requested by the interested party before the court delivering the judgment. The applicant, jointly and severally with the State, shall assume the obligation to pay the amounts received, as applicable.

2. If a deposit were made in order to bring an appeal against the judgment that is being provisionally enforced, the court shall order an advance payment against said deposit and the State shall guarantee reimbursement to the employer, as the case may be, of the amounts paid to the worker.

3. If an appeal deposit were not necessary, the advance payment shall be directly paid to the worker by the State. In this event, the court shall send sufficient evidence of

the steps taken to the management body and shall order it to effect payment to the worker within a term of ten days.

Article 289.

1. If the challenged judgment becomes final, the worker shall be entitled to the difference between the amount ordered in the judgment and the advance payment, which shall be executed against the deposit, as applicable.

2. If the State made the advance payment, the worker may claim the difference from the employer and the State shall subrogate the worker's rights vis-à-vis the employer in relation to the amount paid in advance.

Article 290.

1. If the challenged judgment were repealed by the High Court and the worker became the total or partial debtor of the early payment, he/she must pay this amount to the employer if deducted from the deposit, in which case the State shall be jointly and severally liable with the worker vis-à-vis the employer.

2. If the State has directly made the advance payment or, by virtue of the joint and several liability, the State were liable vis-à-vis the employer, the State may claim the return of the advance payment from the worker.

Article 291.

1. If the obligation to return the payment is not fulfilled, collection proceedings may be brought exclusively on the grounds on the final judgment that ordered provisional enforcement, together with a certificate, issued by the Court Secretary or by the management body, specifying the amounts paid.

2. If mandatory and immediate collection of the amount owed could cause serious harm to the worker, the Judge may defer the payment obligation up to one year, adopting the necessary guarantees to secure an effective collection.

CHAPTER II Judgments ordering payment in Social Security matters

Article 292.

1. Any judgments appealed that order the period payment of Social Security benefits shall be enforceable; the sanctioned party shall be obliged to pay the benefit, within the scope of its obligation, throughout the appeal process.

2. If the judgment delivered in favour of the beneficiary were overruled, in whole or in part, there will be no obligation to return the amounts paid during the provisional enforcement period and the beneficiary shall still be entitled to all the benefits accrued during the appeal process that remain outstanding at the date the judgment became final, notwithstanding the provisions of Article 192.3 herein.

Article 293.

A beneficiary under the public Social Security system who holds a favourable judgment subject to appeal, which ordered the defendant to a single benefit payment, shall be entitled to apply for provisional enforcement and to obtain advance payments on account of the benefit, in the terms established in the foregoing section.

Article 294.

At the request of the beneficiary holding a favourable judgment and at the court's discretion, the judgments ordering an obligation to do or not to do in Social Security matters shall also be provisionally enforced, without the need for a deposit.

CHAPTER III Dismissal judgments

Article 295.

1. In proceedings involving the exercise of actions derived from a dismissal or decision to terminate an employment relationship, if the judgment declares an unfair dismissal and the employer who chose to reinstate the worker were to lodge any of the appeals permitted by law, the employer shall be obliged, throughout the appeal process, to pay to the appealed party the same remuneration he/she was receiving prior to the events and the worker shall continue to provide his/her services, unless the employer prefers to make said payment without any compensation whatsoever.

The foregoing shall also apply when an appeal is lodged by the worker, in the event that reinstatement is applied by the employer.

2. The employer shall be likewise obliged if the judgment declares the nullity of the dismissal or of the decision to terminate the employment relationship.

3. If the dismissal is declared unfair and the worker's selection were in favour of his/her reinstatement, the provisions established in section 1 above shall apply.

4. In the cases referred to in the foregoing sections, the right to receive unemployment benefits in the terms foreseen in the General Social Security Act shall be suspended.

Article 296.

If, by virtue of the foregoing article, the worker files a request in writing or in a hearing to order the employer to fulfil its obligation or the request, in order for the worker to continue providing his/her services, the Judge or Chamber, after hearing the parties, shall issue the corresponding decision.

Article 297.

An unjustified breach on the part of the worker of the employer's request to reinitiate his/her provision of services shall entail the definitive loss of the salary referred to in the foregoing articles.

Article 298.

If a judgment delivered in favour of the worker were repealed in whole or in part, the worker shall not be obliged to return the salary received during the provisional enforcement and shall still be entitled to be paid the salary accrued during the appeal process and not yet received by the time the judgment becomes final.

Article 299.

In those cases where the provisional enforcement rules foreseen in this Chapter are not applicable, and if the necessary requirements are met, reimbursable advance payments may be made in the terms established i this Act, whenever the appealed

judgment declares the nullity or unfairness of the dismissal or of the decisions to terminate the employment relationship.

Article 300.

If the dismissal or decision to terminate has affected one of the workers' legal representatives or a trade union representative, and the judgment declares the nullity or unfairness of the dismissal, including a reinstatement option in the latter case, the court shall adopt, in the terms foreseen in Article 282.c), the necessary measures to ensure the exercise of his/her representation tasks during the processing of the relevant appeal.

CHAPTER IV Judgments ordering the payment of an amount delivered in other proceedings

Article 301.

Judgments delivered in collective dismissal proceedings, challenges to CBAs and proceedings to protect trade union rights and other basic human rights shall be enforceable upon delivery, according to the nature of the claim upheld, notwithstanding any possible appeal.

CHAPTER V Common rules related to provisional enforcement

Article 302.

If applicable, only review appeals and extraordinary appeals may be lodged against resolutions issued in provisional enforcement proceedings.

Article 303.

Judgments delivered in favour of a worker or beneficiary that are not provisionally enforceable under this Act may be enforced in the manner and conditions established in civil procedural law.