Law No 35/2014, 20 June

General Labour Law in Public Functions

The Assembly of the Republic under the terms of subparagraph c) of article 161 of the Constitution decrees as follows:

Article 1

Object

The present law passes the General Labour Law in Public Functions.

Article 2

Approval

The General Labour Law in Public Functions, shortly referred to as GLLPF is passed attached to the present law of which is part and parcel.

Article 3

Calculation of time limits

Time limits provided for in the GLLPF are taken into account under the terms of the Code of Administrative Procedure.

Article 4

Publication

1 – In the 2nd Series of the Official Gazette are published by extract:

a) Appointment acts, as well as those which determine, in respect of appointed workers, definitive changes of body or service or of category;
b) Open-ended contracts for an indefinite period of time, as well as acts, determine as regards contracted workers, definitive changes of body or service or of category;
c) Tenures;
d) The termination acts of modes of public employment legal relationship referred to in the preceding subparagraphs.

2 – The extracts of the acts set out the indication of the career, category and pay step of the appointed or contracted.

Article 5

Other publicizing forms

1 – In the body or service are disclosed by extract and posted on the electronic page as follows:
a) Appointment acts and respective renewals;
b) The fixed and unfixed temporary employment contracts and respective renewals;
c) Provision of services contract and respective renewals;

d) Terminations of modes of employment relationship referred to in the preceding subparagraphs.

2 – Extracts of acts and contracts set out the indication of the career, category and pay step of the appointed or contracted, or, where appropriate, function to be fulfilled and respective pay as well as the respective time limit.

3 – The provision of services contracts also set out reference to the grant of visa or to the issue of declaration of conformity or, where appropriate, their dispensability.

Article 6

Fulfilment of public functions by beneficiaries of retirement pensions paid by the social security or by other fund managing entities

(Repealed)

Article 7

Term of fixed-term contracts for the implementation of research and development projects

1 – In the fixed-term contracts for the implementation of research and development projects referred to in article 122 of Law No 62/2007, of 10 September, the stipulated term shall correspond to the predictable term of projects and shall not exceed six years.

2 – The contracts referred to in the preceding paragraph may be renewed once only, for an equal period or lower than the initially contracted, provided that the maximum term of the contract, including the renewal shall not exceed six years.

3 – The term contracts higher than three years are subject to authorization of the members of the Government in charge of finance and public administration and of the supervision:

a) At the moment of the conclusion of contract, when the period initially contracted is higher than three years; or
b) At the time of the renewal of the contract, when the term of the same, including the renewal, is higher than three years.

4 – The fixed term contracts for the implementation of research projects concluded with public institutions of scientific research and technological development integrated in the National Scientific and Technological System are the object of special system to be established within the framework of scientific research career revision.

Article 8

Term contracts

The GLLPF is applicable to term contracts in progress on the date of entry into force of the present law, except as to matters related to the formation of the contract and effects of facts or situations fully prior to that moment.

Article 9

Application in the time

1 – The public employment relationships and the collective labour regulation instruments formed or concluded before their entry into force are subject to the system provided for in the GLLPF passed by the present law, save as to the conditions of validity and effects of facts or situations fully prior to that moment.

2 –The provisions set out in the collective labour regulation instrument contrary to an imperative rule of the GLLPF are deemed automatically replaced by the content of the legal rule, at the date of entry into force of the present law.

3 – Irrespective of the validity term of the collective labour regulation instrument, the parties may make partial revision of this instrument to bring its clauses in line with the law, within the time limit of six months after the entry into force of the present law.

4 – The collective labour agreements in force may be terminated within the time limit of one year, calculated as from the entry into force of the present law.

Article 10

Subjective scope of application of collective labour agreements

1 – The provisions set out in the GLLPF in matters pertaining to the subjective scope of application of collective labour regulation instruments are applicable to collective labour agreements in force at the date of the entry into force of the present law.

2 – The right of objection and the right of option provided for respectively in paragraphs 3 and 5 of article 370 of the GLLPF shall be exercised within the time limit of 60 days, to be calculated as from the entry into force of the present law.

3 – The extending regulations issued under the terms of the legislation repealed by the present law are hereby repealed.

Article 11

New disciplinary system

1 – The disciplinary system provided for in the GLLPF is immediately applicable to facts committed, proceedings initiated and penalties still running on the date of the entry into force of the present law, when it proves to be in particular, more favourable to the worker and better ensures his/her hearing and defence.

2 – The provisions set out in the article 337 of the Labour Code passed by Law No 7/2009 of 12 February in the current wording are applied to the time limit of limitation period of the disciplinary offence provided for in article 178 in the GLLPF.

Article 12

Compensation in the case of termination of the employment contract in public functions

1 – In the case of termination of the public employment relationship, in the mode of open-ended contract in public functions for an indefinite period of time concluded before the entry into force of the present law, the compensation is calculated as follows:

a) In relation to the period of term of the contract until the date of the entry into force of the present law the amount of the compensation corresponds to a month of basic remuneration for each full year of seniority;
b) In relation to the term of the contract as from the date referred to in the preceding subparagraph, the compensation amount is that which is provided for in the GLLPF.

2 – In the case of termination of the term employment contract the compensation is calculated as follows:

a) in relation to the period of the term of the contract until the date of the entry into force of the present law the compensation amount is that which is provided for in the Employment Contract in Public Functions System passed by Law No 59/2008, of 11 September in the current wording;
b) As regards the period of the term of the contract as from the date referred to in the preceding subparagraph, the compensation amount is that which is provided for in the GLLPF.

Article 13

Existing situations of extraordinary leave

(Repealed)

Article 14

Norms applicable to workers integrated in the convergent social protection system

The provisions set out in articles 15 to 41 are applicable to workers integrated in the convergent social protection system.

Article 15

Absences on grounds of illness

1 – Absence by reason of an illness duly proven does not affect any right of the worker, save as to the provisions set out in the following paragraphs.

2 – Without prejudice to other legal provisions, the absence on grounds of illness duly proven determines:

a) The loss of the total daily remuneration on the first, second and third days of temporary incapacity, in situations of followed or interpolated absences;
b) The loss of 10 % of daily remuneration, as from the fourth day and until the thirtieth day of temporary incapacity.

3 – The calculation of periods of 3 and 27 days referred to, respectively, in subparagraphs a) and b) of the preceding paragraph is interrupted whenever the resumption of performance of work takes place.

4 – The application of the subparagraph b) of paragraph 2 shall depend upon previous occurrence of three successive and non-interpolated days of absences for temporary incapacity under the terms of subparagraph a) of the same paragraph.

5 – The absence by reason of an illness in situations referred to in subparagraph a) of paragraph

2 shall not entail the loss of daily basic remuneration in cases of hospital stay, absences on grounds of out-patient surgery, disease caused by tuberculosis and sickness with commencement in the course of the parental subsidy grant period that exceeds its term.

6 – (Repealed)

7 – The provisions set out in paragraphs 2 to 6 are not to apply to absences by reason of an illness given by disabled persons, when resulting from the disability itself.

8 – The absences on grounds of illness shall always entail the loss of the meal allowance

9 – The provisions set out in the preceding paragraphs shall not prevent recourse to absences to be deducted in the holiday period.

Article 16

Contribution career

1 – During the period of absences by reason of an illness, referred to in the preceding article, the total contribution of employer entities to the Workers Special Pension Scheme, PI (CGA, I.P) is maintained, in the case of workers integrated in the convergent social protection system, determined according to the relevant remuneration for this purpose on the date of occurrence of the absence.

2 – The period of absences on grounds of an illness referred to in the preceding article is equivalent to the entry of workers' contributions for the purposes of disability, old age and death eventualities.

3 – In situations referred to in the preceding paragraph, the value to be taken into consideration for the purposes of equivalence to the entry of contributions is determined with the basis of the reference remuneration.

4 – In the case of absences with partial loss of remuneration referred to in subparagraph b) of paragraph 2 of the preceding article, the equivalence to the entry of the worker's contributions refers solely to the reference remuneration.

5 –The employer entity reports monthly the absences occurred pursuant to the preceding article, under the terms to be defined by the CGA, I.P.

Article 17

Justification of the illness

1 – The worker prevented from appearing in the service on grounds of an illness shall indicate the place where he/she is and submit supporting document provided for in the following paragraphs, within the time limit of five working days.

2 – The illness shall be proven by means of a declaration issued by the hospital establishment, health centre. It includes modes of complementary and permanent dealing, or institutions intended to the prevention or rehabilitation of drug addiction or alcoholism, integrated in the National Health Service, of a model passed by order of the members of the Government responsible for health and public administration areas.

3 – The illness may still be proven through the filling in of the model referred to in the preceding paragraph, by physician exclusive of the services, by physician of other public health

establishments, as well as by physicians working under agreement with any Public Administration health subsystems within the framework of the medical specialization object of the respective agreement.

4 – In situations of hospital stay, the proof may also be carried out by private establishment with legal authorization of functioning, granted by the Ministry of Health.

5 – Failure to deliver supporting document proving the illness under the terms of paragraph 1 implies, if it is not duly grounded, unjustified absences given until the date of the entry of said document in the services.

6 – The supporting documents proving the illness may be delivered directly in the services or sent to the same through mail duly registered. In this latter case it shall be taken into consideration, the date of the respective dispatch for the purposes of compliance with the time limits of the delivery set in this article, if the date of its entry in the services is subsequent to the limit of the referred to deadlines.

7 – The supporting document proving the illness may also be delivered by electronic means by the entities referred to in paragraphs 2 to 4, at the moment of the certification of the illness situation, to the service where the worker fulfils functions or to the organization to which the competence to the centralized collection of such documents is given. A copy of the referred to document proving this delivery shall be immediately provided to the worker.

Article 18

Means of proof

1 – The declaration of illness shall be duly signed by the physician, authenticated by entities empowered for its issue in cases provided for in paragraph 2 of the preceding article and shall indicate:

a) Physician's identification;
b) Number of the physician's professional license;
c) Agreement's identification with a health subsystem under which the illness is proven;
d) Worker's identity card number or citizen card number;
e) Identification of the health subsystem and the worker's beneficiary number;
f) The mention of impossibility to appear before the service;
g) Predictable term of the illness;
h) Indication of having occurred or not hospital stay;
i) Express mention that the illness shall not entail permanence in the residence or in the place where he/she is ill, where this is appropriate.

2 – When there has been hospital stay and this one terminates, the worker shall appear before the service with the respective discharge document or, in the case of not yet been fit to return, communicate and submit supporting document proving the illness under the terms of provisions set out in the preceding article, calculating the time limits therein provided for as from the discharge's day.

3 – Each illness declaration is valid for the period indicated by the physician as predictable term of the illness, which shall not exceed 30 days.

4 – If the situation of illness is maintained beyond the period provided for by the physician, a new declaration shall be delivered, and the provisions set out in paragraphs 1 and 5 of the preceding article shall be applicable.

Article 19

Illness abroad

1 – The worker who falls ill abroad shall, by himself/herself or through an intermediary communicate the fact to the service within the time limit of seven working days.

2 – The documents proving the illness occurred abroad shall be certified by the competent authority of the diplomatic or consular mission of the area where the worker is ill. Said documents shall be delivered to the respective service within the time limit of twenty working days calculated pursuant to article 72 of the Code of Administrative Procedure, passed by Decree-Law No 442/91 of 15 November, in the current wording, save the occurrence of reasons that render impossible or make difficult the obtaining of such certification, in terms that render unnecessary the respective demand.

3 – If the communication and the supporting document proving the illness were delivered by registered mail, the date of the respective dispatch is taken into consideration for the purposes of compliance with the time limits referred to in the preceding paragraphs, if the date of entry in the services is subsequent to the limit of those deadlines.

4 – Failure to communicate as referred to in the paragraph 1 or to deliver supporting documents proving the illness as per the preceding paragraphs shall entail, if they are not duly grounded, unjustified absences given until the date of receipt of the communication or the entry of such documents.

Article 20

House checking of the illness

1 – Save in cases of hospital stay, medical certificate issued under the terms of paragraph 2 of article 17 and of illness occurred abroad, the competent manager may if he/she so wishes, request house checking of the illness.

2 – When the illness shall not entail staying at home, the respective supporting document proving the illness shall contain reference to this fact.

3 – In cases provided for in the preceding paragraph, the worker shall indicate in the supporting document proving the illness, the days and hours that the house checking of the illness may be carried out, with a minimum of three days per week and two periods of daily checking, of two and a half hours each one between 9 am and 7 pm.

4 – If the person concerned is not found at home or place where he/she has indicated to be ill, all absences given are deemed unjustified, by order of the top manager of the service, if the worker shall not justify his/her absence, upon submission of appropriate evidence, within the time limit of two working days, calculated as from the taking note of the fact, forwarded to him/her through registered letter with return receipt.

5 – If the opinion of the competent physician for house checking is negative, all absences given since the day following the communication of the result of such checking are deemed unjustified; such communication shall be made by registered letter with return receipt and considered the extension of three working days, until the moment in which actually resumes functions.

Article 21

House checking of the illness by Public Administration Health Subsystem (ADSE)

1 – The house checking of the worker's illness, in areas defined by order of the members of the Government in charge of finance and public administration fields, is carried out by physicians of the establishment plan of the Directorate General for Social Protection to Workers in Public Functions (ADSE) or by their attached or certified physicians, in this case by monthly fixed amount payment contract, the remuneration of which is set by order of those members of the Government.

2 – The top manager of the service requests a physician directly to ADSE, in writing or by telephone for this purpose, who makes an appropriate medical examination, forwarding immediately essential information.

Article 22

House checking of the illness by health authorities

1 – Outside the areas referred to in paragraph 1 of the preceding article, the house checking of the worker's illness is made by health authorities of the area of his/her usual residence or of that where he/she is ill.

2 – Whenever from the house checking of the illness made outside those areas result travel expenses, the service on which the worker checked depends shall bear said expenses through appropriate budget allocation.

Article 23

Medical board's intervention

1 – With exception of cases of hospital stay, as well as of those in which the worker ill abroad, there is room for medical board's intervention when:

a) The worker has attained the limit of 60 consecutive calendar days of absences due to illness and is not fit to return to the service;
b) The worker's action seems to indicate, in matters pertaining to absences for illness, a fraudulent behaviour.

2 – In the case provided for in the subparagraph b) of the preceding paragraph, the manager of the service shall justify the request for medical board's intervention.

Article 24

Request for submission to a medical board

1 – For the purposes of provisions set out in subparagraph a) of the preceding article, the service on which the worker depends shall, within the five days immediately earlier than the date in which 60 consecutive calendar days are completed of absences for illness, notify him/her to appear before a medical board, by indicating the day, hour and place where the same is carried out.

2 – If the medical board deems that the person concerned is fit to return to the service, the absences given during the period of time between 60 days and the medical board's opinion, are

deemed justified for illness.

3 – For the purposes of provisions set out in the preceding article, the period of 60 consecutive calendar days of absences is then taken into account, even in cases in which there is transition of a calendar year to another.

Article 25

Absences limit

1 – The medical board may justify absences due to illness for successive periods of 30 days, until the limit of 18 months, without prejudice to provisions set out in article 36.

2 – Provisions set out in the preceding paragraph do not affect the possibility of the service terminate, at its term, the contracts concluded with staff under the legislation in force on this matter.

Article 26

Submission to a medical board irrespective of the occurrence of absences due to illness

1 – When the worker's behaviour points to possible change of the health state, including psychological disorder that may compromise the regular performance of his/her functions, the top manager of the service, by means of justified order and by virtue of the right to protection of health, may order to submit him/her to a medical board, even in cases in which the worker is fulfilling functions.

2 – In this case, the presentation to a medical board is deemed of manifest urgency.

3 – The worker may, wherever deemed convenient, indicate a physician chosen by him/her to integrate the medical board.

Article 27

Lack of medical data and collaboration of specialist doctors

1 – If the medical board have not enough data enabling it to decide, shall grant the worker a time limit to obtain such information, once the time limit has been expired, he/she shall be submitted again to a new medical board.

2 – The worker is obliged, within the time limits set by the medical board to:

a) Be submitted to clinical examinations that the medical board deems indispensable, which are, at its request, scheduled by it, and borne entirely by ADSE;
b) Be submitted to a medical board with information required by it.

3 – Non-compliance with provisions set out in the preceding paragraph shall entail unjustified absences given since the term of the period of absences previously granted, unless the obtaining of examinations after expiration of the deadline is not imputable to the worker.

4 – Whenever necessary, the medical board may request for collaboration of specialist doctors and other experts or resort to specialized services of official establishments; the respective charges shall be borne under the terms provided for in subparagraph a) of paragraph 2.

Article 28

Obligation to presentation to a medical board

1 – The worker who, under the terms of preceding articles, should be submitted to a medical board may present himself/herself to the service, before that has been verified, save in cases provided for in the subparagraph b) of paragraph 1 of article 23 and in article 26.

2 – Save impediment duly justified, the non-attendance at the medical board that the worker has been convened shall entail unjustified absences given since the term of the period of absences previously granted.

3 – The worker who, pursuant to article 26, has been ordered to attend the medical board and has not attended it, shall be deemed in the situation of unjustified absences as from the date on which the same should be carried out, save if the non-attendance is duly justified before the service on which depends, within the time limit of two working days, calculated as from the date of the non- attendance.

Article 29

Medical board's opinion

1 – Medical board's opinion shall be communicated to the worker on the day itself and forwarded without delay to the respective service.

2 – The medical board shall give an opinion on whether the worker is fit to return to the service and, in cases in which deems that he/she is not in a position to resume the activity, shall indicate the expectable term of the illness, with observance of the limit provided for in article 25, and schedule the date of submission to a new medical board.

3 – In the case provided for in paragraph 1 of article 27, absences given by the worker who has been considered fit to return to the service, since the date of the request for submission to a medical board, shall be treated as actual and effective service.

Article 30

Interruption of absences due to illness

1 – The worker who is in the situation of absences due to illness granted by the medical board or is waiting for the first attendance at a medical board may only return to service before the term of the period provided for by means of medical certificate that deems him/her fit to resume activity, without prejudice to subsequent presentation before the medical board.

2 – For the purposes of the preceding paragraph, the medical board's intervention is deemed to be of manifest urgency.

Article 31

Calculation of the time limit of absences due to illness

For the purposes of the maximum limit of 18 months of absences due to illness provided for in paragraph 1 of article 25, are always taking into account, even though related to different calendar years:

a) All absences due to illness, followed or interpolated, when between them there is not a

break higher than 30 days, in which the holiday periods are not included;

b) The justified absences due to illness corresponding to days between the term of 30 consecutive calendar days of absences due to illness and the medical board's opinion that deems the worker fit for the service.

Article 32

End of the time limit of absences due to illness of staff under fixed or unfixed term contract

1 – Once the time limit of 18 months of absences due to illness has ended, and without prejudice to provisions set out in article 37, to staff under fixed or unfixed term contract that is not able to return to the service are applied the provisions set out in subparagraph a) of paragraph 1 of article 34 provided they meet the requirements for retirement, save if they choose for the termination of the contract.

2 – The contract shall be terminated regarding staff who doesn't meet the requirements for retirement.

Article 33

Medical board

1 – The medical board referred to in preceding articles operates and reports directly to ADSE, without prejudice to provisions set out in paragraph 3.

2 – The composition, competence and functioning of the medical board referred to in the preceding paragraph are set by regulatory decree.

3 – The ministries having deconcentrated services and local authorities may set up medical boards within the respective services.

Article 34

End of the time limit of absences due to illness

1 – Once the time limit of 18 months has ended in the situation of absences due to illness, workers may, without prejudice to provisions set out in article 38:

a) Request, within the time limit of 30 days and through the respective service, their presentation before the medical board of the CGA, I.P., if the minimum requirements for retirement are met;
b) Request the change to the leave without pay situation.

2 – In the case provided for in the subparagraph a) of the preceding paragraph and until the date of the CGA, I.P., medical board's decision, the worker is deemed to be in the situation of absences due to illness, and the corresponding system shall be applied to them.

3 – The worker who shall not request, within the time limit predicted, his/her presentation before the medical board of the CGA, I.P., changes automatically to the situation of leave without pay, subject to provisions set out in paragraph 5 of article 281 of the GLLPF.

4 – The worker who shall not meet the requirements for presentation before the medical board of the CGA, I.P., shall be notified by the respective service so that on the day subsequent to the Notification, resume the fulfilment of functions, under penalty of becoming covered by

provisions set out in the final part of the preceding paragraph.

5 – The worker changes automatically to the situation of leave without pay, if he/she has been deemed fit by the medical board of the CGA, I.P., and falls ill again without having fulfilled more than 30 days of consecutive service, on which holidays are not included.

6 – The provisions set out in the preceding paragraph are not applicable if during the term of 30 consecutive days referred to in the preceding paragraph:

a) Occurs worker's hospital stay;
b) There is submission to outpatient treatment or the verification of severe disabling illness, certified by medical board, requested by the worker, pursuant to article 39.

7 – The worker shall be obliged to be submitted to clinical examinations determined by the medical board of the CGA, I.P. The refusal of their carrying out shall entail unjustified absences given since the date which is set to him/her for the respective presentation.

8 – The return to the service of the worker who has changed to the leave situation provided for in subparagraph b) of paragraph 1 shall not be subject to the lapse of any time limit.

9 – The retirement processes provided for in the present article have absolute priority over any others of any kind whatsoever, such priority shall be invoked by the services at the time of the first delivery of the respective file to CGA, I.P.

Article 35

Checking of the disabling

1 – The retirement processes for disabling to which provisions set out in the preceding article are applicable are deemed urgent and with absolute priority over any others of any kind whatever, and are subject to a special system of simplified procedural steps, with the following specificities:

a) The participation of the rapporteur physician shall be waived, considering prior intervention of other medical board, enabling to sufficiently characterize the clinical situation of the subscriber;
b) The presence of the subscriber is compulsory solely when the medical board deems the direct medical examination necessary to the full explanation of the clinical situation;
c) The postponement of the medical board due to impossibility of presentation of the subscriber, when this one is considered necessary, shall depend on the hospital stay in duly proven health institution.

2 – The medical board referred to in paragraph 2 of the preceding article is that which is provided for in the article 91 of the Retirement Statute, passed by Decree-Law No 498/72, of 9 December, in the current wording, the request for an appellate medical board has no suspensive effect as to the decision of that board for the purposes of justification of absences due to illness.

3 – The A CGA, I.P., may determine the application of the special system of simplified procedural steps to other situations whose seriousness and rapid evolution so justifies it.

Article 36

Submission to the medical board of the Caixa Geral de Aposentações, I.P., in the course of the illness

The worker may in the course of the illness, request for his/her presentation before the medical board of the CGA, I.P. In this case, provisions set out respectively in articles 32 and 34, as appropriate, are to apply with due adaptations.

Article 37

Absences due to long-term illness

1 – The absences given due to disabling illness that requires expensive and or lasting treatment, give the worker the right to extension, for 18 months, of the maximum time limit of absence provided for in article 25.

2 – The illnesses referred to in paragraph 1 are defined by order of the members of the Government in charge of finance, public administration and health.

3 – The absences given under the Assistance to Consumptive Civil Servants are governed by provisions set forth in the Decree-Law No 48 359, of 27 April 1968, changed by Decrees-Laws Nos. 100/99, of 31 March, and 319/99, of 11 August.

4 – (Repealed)

Article 38

Absences for professional rehabilitation

1 – The worker who is considered, by the medical board referred to in article 33, unfit for the fulfilment of his/her functions, but fit for the performance of others to which may not be assigned through internal mobility, has the duty to apply for all open competition procedures to fill work posts provided for in the workforce lists of bodies or services, provided that provisions set out in article 95 of the GLLPF are observed, applicable with due adaptations, as well as the right to attend at training actions for this purpose.

2 – While there is not resumption of functions under the terms of the preceding paragraph, the worker is under an absence system for occupational rehabilitation.

3 – The absences for occupational rehabilitation take the effects of absences due to illness.

Article 39

Appellate medical board

1 – When the medical board of the CGA, I.P., contrary to the competent medical board's opinion, deem the worker fit for the service, he/she may or the service to which reports request for his/her presentation before an appellate medical board, and this one shall give its opinion for the purposes of the preceding article, where applicable.

2 – The appellate medical board referred to in the preceding paragraph is made up of a physician indicated by the Social Security Institute, P.I., a physician indicated by the ADSE or by medical boards provided for in paragraph 3 of article 33 and a university professor of faculties of medicine, designated by the member of the Government responsible for finance and public

administration areas, who presides over.

Article 40

Allowance for assistance to members of the family

The article 36 of the Decree-Law No 89/2009, of 9 April, changed by Decree-Law No 133/2012, of 27 June is to apply to workers under an employment contract in public functions system integrated in the convergent social protection system.

Article 41

Careers, special corps and remuneration levels revision of the executive tenures

1 – Without prejudice to the revision that shall take place under the terms legally provided for, the careers that have not yet been the object of abolishment, revision or of decision of continuity are maintained, namely those of special system and those of special corps, as well as the integration of the respective workers, given that:

a) Only after such revision takes place, with regard to such workers, the implementation of changes/transitions through the nominative list referred to in article 109 of the Law No 12-A/2008, of 27 February, in the current wording, except in relation to the mode of formation of the public employment legal relationship and general mobility situations of the or in the body or service;
b) Until the commencement of the revision validity:
    i. the careers in question are governed by normative provisions applicable on 31 December 2008, with changes resulting from articles 156 to 158, 166 and 167 of the GLLPF and 113 of the Law No 12- A/2008, of 27 February, in the current wording;
    ii. the provisions set out in the subparagraph d) of paragraph 1 of article 37 of the GLLPF, as well as in paragraph 11 of article 28 of the Order No 83-A/2009, of 22 January, changed and republished by Order No 145-A/2011, of 6 April are applicable to open competition procedures for the careers in question;
    iii. the paragraph 3 of article 110 of the Law No 12-A/2008, of 27 February, in the current wording, is not applied to them, but only with regard to pending open competition procedures on the date of commencement of the referred to validity period.

2 – The revision of careers referred to in the preceding paragraph shall ensure:

a) The compliance with rules related to the organization of careers provided for in the GLLPF and in its article 149, namely as to the contents and functional duties, number of categories and pay steps;
b) The repositioning of the pay step, with the cash amount calculated in accordance with paragraph 1 of article 104 of the Law No 12-A/2008, of 27 February, in the current wording, without increases;
c) The changes of pay step according to last performance appraisals and the respective differentiation ensured by a quota system;
d) The prospects of the pay evolution of former careers, only increasing them in a sustainable manner.

3 - By justified order of the competent entity for the opening of the competition procedure, the

application, with the necessary adaptations, of the provisions set in paragraphs 1 to 3 of article 40 of Ordinance No 83-A/2009 of 22 January, as amended and republished by Ordinance No 145-A/2011 of 6 April, regarding the constitution of a recruitment reserve for a period of 18 months may be determined.

4 – Provisions set out in paragraph 1 are applicable, with due adaptations, to pay levels of the tenures.

5 – The system set in the present article has a mandatory nature, prevailing over any other legal or conventional norms, special or exceptional, to the contrary, and shall not be excluded or amended by the same.

Article 42

Repealing norm

1 – The following legislation shall be repealed:

a) Law No 23/98, of 26 May, changed by Law No 59/2008, of 11 September;
b) articles 16 to 18 of Law No 23/2004, of 22 June, changed by Decree-Law No 200/2006, of 25 October, and by Law No 53/2006, of 7 December, and repealed by Law No 59/2008, of 11 September, with exception of articles that now are repealed;
c) law No 12-A/2008, of 27 February, changed by Laws Nos 64-A/2008, of 31 December, 3-B/2010, of 28 April, 34/2010, of 2 September, 55-A/2010, of 31 December, 64-B/2011, of 30 December, 66/2012, of 31 December, and 66-B/2012, of 31 December, and by Decree-Law No 47/2013, of 5 April, with exception of transitional rules covered by articles 88 to 115;
d) Law No 58/2008, of 9 September, changed by Decree-Law No 47/2013, of 5 April;
e) Law No 59/2008, of 11 September, changed by Law No 3-B/2010, of 28 April, by Decree-Law No 124/2010, of 17 November, and by Laws Nos. 64-B/2011, of 30 December, 66/2012, of 31 December, and 63/2013, of 29 August;
f) Decree-Law No 259/98, of 18 August, changed by Decree-Law No 169/2006, of 17 August, and by Laws Nos 64-A/2008, of 31 December, 66/2012, of 31 December, and 68/2013, of 29 August;
g) Decree-Law No 100/99, of 31 March, changed by Law No 117/99, of 11 August, by Decrees-Laws 503/99, of 20 November, 70-A/2000, of 5 May, 157/2001, of 11 May, 169/2006, of 17August, and 181/2007, of 9 May, by Laws Nos. 59/2008, of 11 September, and 64-A/2008, of 31 December, by Decree-Law No 29-A/2011, of 1 March, by Laws Nos. 66/2012, of 31 December, and 66-B/2012, of 31 December, and by Decree-Law No 36/2013, of 11 March;
h) Decree-Law No 324/99, of 18 August, changed by Law No 12-A/2008 of 27 February;
i) Decree-Law No 325/99, of 18 August, changed by Law No 12-A/2008, of 27 February.

2 – Regulations published pursuant to legislation repealed by the present are maintained in force, when there is equal legal qualification in the GLLPF, namely:

a) Regulatory decree No 14/2008, of 31 June;
b) Ordinance No 1553-C/2008, of 31 December;
c) Ordinance No 62/2009, of 22 January.

3 – All references to legal texts now repealed are deemed to be made for the corresponding rules of the present law.

Article 43

Transitional provision

1 – The legislation concerning staff with police functions of the Public Security Police, referred to in paragraph 2 of article 2 of the GLLPF, shall be approved by 31 December 2014.

2 – Until the date of the entry into force of the special law provided for in the preceding paragraph, the staff with police functions of the Public Security Police shall continue to be governed by law applicable before the entry into force of the GLLPF.

Article 44

Entry into force

1 –The present law enters into force on the first day of the second month following that of its publication.

2 – The provisions set out in the present law shall not affect the validity of rules of the State Budget Law in force.

Signature

Approved on 28 March2014.

The President of the Assembly of the Republic (Parliament), Maria da Assunção A. Esteves.

Promulgated on 3 June 2014.

Let it be published.

The President of the Republic, Aníbal Cavaco Silva.

Countersigned on 5 June 2014.

The Prime Minister, Pedro Passos Coelho.

ANNEX

General Labour Law in Public Functions

(Referred to in article 2)

PART I

General Provisions

TITLE I

Scope

Article 1

Scope of application

1 – The present law regulates the employment relationship in public functions.

2 – The present law shall be applicable to direct and indirect state administration and, with due adaptations, namely as regards competencies in administrative matters of the corresponding own government bodies, regional administration services and local authority administration.

3 – The present law is also applicable, with adaptations imposed by the observance of the corresponding competencies, to bodies and supporting services to the President of the Republic, Courts and Public Prosecutor's Office and respective management bodies and other independent bodies.

4 – Without prejudice to special systems and with adaptations imposed by the compliance with corresponding competencies, the present law is still applicable to bodies and supporting services to the Assembly of the Republic (Parliament).

5 – The application of the present law to external peripheral services of the Ministry of Foreign Affairs, with regard to workers recruited to therein fulfil functions, including the workers of State's official residences, shall not affect the validity of:

a) Norms and principles of international law that provide otherwise;
b) Imperative norms of local public order;
c) Special normative instruments provided for in specific legal text.

6 - The present law is also applicable, with due adaptations, to other workers with employment contract in public functions and that do not fulfil functions in entities referred to in preceding paragraphs.

Article 2

Exclusion of the scope of application

1 – The present law shall not be applicable to:

a) Supporting Offices of Members of the Government and holders of bodies referred to in paragraphs 2 to 4 of the preceding article;
b) Public corporations' entities;
c) Independent administrative entities with regulation functions of the economic activity

of private, public and cooperative sectors and Bank of Portugal.

2 – The present law shall not be applicable to the military of the Armed Forces, military of the National Republican Guard and staff with police functions of the Public Security Police, to staff from the criminal investigation career, security career and judicial inspection and evidence-gathering staff of the Criminal Police, as well as to staff of the investigation and inspection career at the Foreigners and Borders Service, whose systems are set out in a special law, without prejudice to provisions set out in subparagraphs a) and e) of paragraph 1 of article 8 and the compliance with the following principles applicable to public employment relationship:

a) Continuity of the fulfilment of public functions, provided for in article 11;
b) Guarantees of impartiality provided for in articles 19 to 24;
c) Human resources planning and management provided for in articles 28 to 31;
d) Open competition procedure provided for in article 33;
e) Career organization, provided for in paragraph 1 of article 79, in articles 80, 84 and 85 and in paragraph 1 of article 87;
f) General principles in matters pertaining to remunerations, provided for in articles 145 to147, in paragraphs 1 and 2 of article 149, in paragraph 1 of article 150, and in articles 154, 159 and 169 to 175.

Article 3

Bases of the system and scope

Basic norms defining the system and scope of the public employment relationship are as follows:

a) Articles 6 to 10, on the modes of employment relationship and performance of work for the fulfilment of public functions;
b) Articles 13 to 16, concerning the sources and participation in the labour legislation;
c) Articles 19 to 24, related to impartiality guarantees;
d) Article33, on the open competition procedure;
e) Articles 70 to 73, on rights, duties and guarantees of the worker and the public employer;
f) Articles 79 to 83, related to general provisions and career structuring;
g) Articles 92 to 100, on mobility;
h) Articles 144 to 146, on general principles related to remunerations;
i) Articles 176 to 240, on the exercise of the disciplinary power;
j) (Repealed);
k) Articles 288 to 313, related to the termination of employment relationships;
l) Articles 347 to 386, on collective negotiation;
m) Those included in the professional development scheme for workers

Article 4

Reference to the Labour Code

1 – Provisions set out in the Labour Code and respective complementary legislation with exceptions legally provided for are applicable to the public employment relationship, without prejudice to provisions set out in the present law with due adaptations, namely in matters pertaining to:

a) Relationship between the law and the collective labour regulation instruments and between those sources and the employment contract in public functions;
b) Personality right;

c) Equality and non-discrimination;
d) Harassment
e) Parenthood;
f) Worker with reduced capacity and workers with disability or chronic disease;
g) Student worker;
h) Organization and work time;
i) Non-working times;
j) Promotion of safety and health at work, including prevention;
k) Workers' committees, trade union associations and workers' representatives in matters concerning safety and health at work;
l) Peaceful collective dispute settlement mechanisms;
m) Strike and lock-out.

2 – When applying the Labour Code and complementary legislation referred to in the preceding paragraph result the grant of competencies to the service empowered with inspection competences of the ministry responsible for the labour area, these ones shall be regarded as granted to the service with inspection competence of the ministry that manages or supervises the public employer in question and, cumulatively to the Inspectorate General of Finance (IGF).

3 – The Work Conditions Authority is responsible for promoting occupational risk prevention policies, improving working conditions and monitoring compliance with occupational safety and health legislation.

4 – For the purposes of application of the system provided for in the Labour Code to the public employment relationship, the references to the employer and company or establishment, are deemed made to public employer and body or service respectively.

5 – The system of the Labour Code and complementary legislation in matters pertaining to accidents at work and occupational diseases is applicable to workers who fulfil public functions in entities referred to in subparagraphs b) and c) of paragraph 1 of Article 2, with the exception of staff integrated in the Convergent Social Protection Scheme to whom Decree-Law No 503/99 of 20 November applies.

6 – For the purposes of monitoring compliance with occupational safety and health legislation, the labour offences regime provided for in the Labour Code and supplementary legislation shall apply, with the adaptations set out in Title IV of Part I of the present Law.

Article 5

Complementary legislation

The following is set out in a specific legal text:

a) Integrated system of management and performance appraisal in Public Administration;
b) System of accidents at work and occupational diseases of workers fulfilling public functions;
c) System of workers' vocational training fulfilling public functions;
d) Public Administration's management staff statutes.

TITLE II

Modes of employment relationship and performance of work for the fulfilling of public functions

Article 6

Concept and modes

1 – The work in public functions may be performed by means of public employment relationship or service delivery contract, under the terms of the present law.

2 – The public employment relationship is that one by which a natural person performs his/her activity to a public employer, on a subordinate basis and by way of remuneration.

3 – Public employment relationship has the following forms:

a) Employment contract in public functions;
b) Appointment;
c) Tenure.

4 – The public employment relationship may be formed for an indefinite period of time or a fixed or unfixed temporary term.

Article 7

Employment contract in public functions

The public employment relationship is formed, as a rule, by way of employment contract in public functions.

Article 8

Appointment

1 – The public employment relationship is formed by appointment in cases of fulfilment of functions within the scope of the following assignments, competencies and activities:

a) Generic and specific missions of the Armed Forces in permanent establishment plans;
b) External representation of the State;
c) Security information;
d) Criminal investigation;
e) Public security in public space and in institutional services namely prisons and courts;
f) Inspection.

2 – Functions referred to in the preceding paragraph are developed within the framework of special careers.

3 – When the functions referred to in subparagraphs b) to f) of paragraph 1 shall be fulfilled on a transitional basis, the system of the present law for the employment contract in public functions under a fixed or unfixed temporary term is to apply with due adaptations.

Article 9

Tenure

1 – The public employment relationship is formed by tenure in the following cases:

a) Positions not integrated in careers, namely management positions;
b) Functions fulfilled with a view to obtaining specific training, academic qualifications or professional degree by worker with public employment relationship for an indefinite period of time.

2 – In the absence of a special norm, the regulation provided for the public employment relationship of origin is to apply to the tenure and, when this one does not exist, the regulation provided for contracted workers.

Article 10

Service delivery

1 – The service delivery contract for the fulfilment of public functions is concluded for the service delivery in body or service without subjection to the respective discipline and management, nor work schedule.

2 – The service delivery contract for the fulfilment of public functions may take the following forms:

a) Task contract, the purpose of which is the performance of specific works, of an exceptional nature, such contracts shall not exceed the end of the contractual term initially established;
b) Successive service delivery contract, the purpose of which is the performance of continued delivery of liberal profession services, with monthly fixed pay; said contracts may terminate at any time by any of the parties concerned, even when concluded with tacit renewal clause, with 60-day prior notice and without obligation to compensate.

3 – Service delivery contracts for the fulfilment of public functions, in which there is legal subordination, are deemed null and void and shall not give rise to the formation of a public employment relationship.

4 – The nullity of service delivery contracts shall not affect the full taking of their effects during the time in which they have been implemented, without prejudice to civil, financial and disciplinary liability, in which incurs that one who is responsible for them.

Article 11

Continuity of the fulfilment of public functions

The fulfilment of functions under any forms of public employment relationship, in any of the bodies or services to which the present law is applicable is taken into account as fulfilment of public functions in the career, category or in the pay step, as the case may be, when the workers, maintaining that fulfilment of functions, change definitively of body or service.

Article 12

Competent jurisdiction

Disputes arising from the public employment relationship fall upon the competence of administrative and fiscal courts.

TITLE III

Sources and participation in the labour legislation

CHAPTER I

Sources

Article 13

Specific sources of the employment contract in public functions

1 – The employment contract in public functions shall be governed by collective labour regulation instrument, under the terms of the present law.

2 – Usual practices are still worthy of mention, provided that they shall not contradict legal norms and of collective labour regulation instruments and are consistent with principles of good faith.

3 – The collective labour agreement, adhesion agreement and the decision of voluntary arbitration are conventional collective labour regulation instruments.

4 – The necessary arbitration decision is the non-conventional collective labour regulation instrument.

5 – The collective career agreement and the collective public employer agreement are collective labour agreements.

6 – The collective career agreement is the collective agreement applicable within the framework of a career or a set of careers, irrespective of the body or service where the worker fulfils functions.

7 –The collective public employer agreement is the collective agreement applicable within the scope of the body or service where the worker fulfils functions.

Article 14

Articulation of collective agreements

1 – The collective labour agreements are articulated, and the collective career agreement shall indicate the matters that may be regulated by collective public employer agreements.

2 – In the absence of collective career agreement or the indication referred to in the preceding paragraph, the collective public employer agreement may only regulate the matters related to safety and health at work and working time term and organization, excluding those related to remuneration supplements.

CHAPTER II

Participation of workers in the labour legislation

Article 15

Right of participation in the drawing up of labour legislation

1 – Workers with public employment relationship are entitled to participate in the drawing up of labour legislation, as per the present chapter.

2 – Labour legislation is deemed, for the purposes of provisions set out in the preceding paragraph, that which is related to the juridical system applicable to workers with a public employment relationship, namely in the following matters:

a) Formation, amendment and termination of the public employment relationship;
b) Recruitment and selection;
c) Working time;
d) Holidays, absences and leaves;
e) Remuneration and other cash benefits;
f) Training and professional development;
g) Safety and health at work;
h) Disciplinary system;
i) Mobility;
j) Performance appraisal;
k) Collective rights;
l) Convergent social protection system;
m) Complementary social action.

Article 16

Exercise of the right of participation

1 – Any draft bill or draft law, draft decree-law or draft regional decree related to matters provided for in the preceding article may only be discussed and voted by the Assembly of the Republic (Parliament), by the Government of the Republic, by legislative assemblies of autonomous regions and by regional governments, after the workers' committees and trade union associations having given their opinion on them.

2 – For the purposes of provisions set out in the preceding paragraph, provisions set out in articles 472 to 475 of the Labour Code, passed by Law No 7/2009, of 12 February, in the current wording is to apply.

TITLE IV

Safety and Health at Work

Article 16 – A

General provision

For the purposes of the provisions of subparagraph j) of paragraph 1 of article 4 of the present

law, the legal regime for the promotion of occupational safety and health, set out in Law No 102/2009 of 10 September, shall apply to public employers with the specificities provided for in the present title.

Article 16 – B

Concept

For the purposes of the present Title, "worker" means a natural person who:

a) Provided for remuneration, it is obliged to perform work in public functions to a public employer;
b) Not having a public employment relationship, is integrated in the working environment of the public employer, namely the trainee whose traineeship regime does not conflict with the regime provided for herein, the fellow and the service provider.

Article 16 – C

Information to the occupational safety and health service

The public employer shall communicate to the occupational safety and health service and to workers with specific duties in the field of safety and health at work the performance of functions beginning of all workers with a public employment relationship, including those in a situation of mobility or temporary transfer due to public interest, and of persons who do not hold a public employment legal relationship, namely trainees, fellows and service providers.

Article 16 – D

Common Services

1 - Without prejudice to the provisions of article 82 of Law No 102/2009 of 10 September, the public employer may resort to common occupational safety and health services shared between the bodies belonging to one or several ministries with a view to optimize resources, being applicable the provisions of article 8 of Law No 4/2004 of 15 January.

2 – The recourse to common occupational safety and health services does not exempt the public employer of the liability provided for in the following article.

Article 16 – E

Responsible for the administrative offence

1 - The public employer is responsible for administrative offences in matters of safety and health at work, even if committed by their workers in the exercise of their respective functions, without prejudice to the liability assigned by law to other parties concerned.

2 - The provisions of paragraph 3 of article 551 of the Labour Code shall not apply to the situation provided for in the preceding paragraph.

3 - The public employer has the right of recourse against the respective top manager in case of serious negligence or intent, which shall be determined in disciplinary proceeding.

Article 16 – F

Amounts of fines and additional sanctions

1 - For the purposes of determining the applicable fine and taking into account the relevance of the interests infringed, occupational safety and health administrative offences shall be classified into light, serious and very serious.

2 - To each level of gravity of the administrative offences corresponds a fine, variable according to the degree of guilt of the offender, with the minimum and maximum limits provided for in article 555 of the Labour Code being applicable, without prejudice to the provisions of the following paragraph.

3 - The maximum amounts of fines applicable to the very serious administrative offences referred to in paragraph 1 are doubled.

4 - In the case of a very serious administrative offence or repeated serious offence, committed with intent or with gross negligence, the offender shall be subject to the additional sanction of publicity, under the terms of article 562 of the Labour Code.

Article 16 – G

Use of the proceeds from fines

The proceeds from fines imposed in matters of occupational safety and health shall revert:

a) 50 %, to the service with inspection competence of the ministry responsible for the labour area, as remuneration for operating costs and procedural expenses;
b) 25% to the social security budget; and
c) 25% to the State Budget.

PART II

Public employment relationship

TITLE I

Worker and employer

CHAPTER I

Worker

SECTION I

Requirements for the formation of the public employment relationship

Article 17

Requirements related to the worker

1 – In addition to other special requirements provided by the law, the formation of the public employment relationship depends upon the meeting of the following conditions by the worker:

a) Portuguese nationality, when it is not waived by the Constitution, international convention or special law;

b) 18 full years of age;
c) Non-inhibition of the fulfilment of public functions or no ban for the fulfilment of those he/she intends to fulfil;
d) Physical strength and psychic profile indispensable to the fulfilment of functions;
e) Compliance with laws of compulsory vaccination.

2 – Portuguese nationality for the fulfilment of public functions may only be required under the situations provided for in paragraph 2 of article 15 of the Constitution.

Article 18

Academic degree or professional certificate

1 – The fulfilment of public functions may depend upon holding of an academic degree or professional certificate, under the terms defined in the career regulatory rules.

2 – The absence of the requirement provided for in the preceding paragraph, when mandatory, shall entail nullity of the public employment relationship.

3 – The loss, definitively, of the degree or certificate referred to in paragraph 1 shall entail the termination of the public employment relationship for expiration.

SECTION II

Guarantees of impartiality

Article 19

Incompatibilities/disqualifications and impediments

1 – In the fulfilment of their functions, workers in public functions are exclusively at the service of the public interest, as defined, under the terms of the law, by the competent administration bodies.

2 – Without prejudice to impediments provided for in the Constitution and in other legal texts, workers with public employment relationship are subject to the incompatibilities/disqualifications and impediments provided for in the present section.

Article 20

Incompatibility/disqualification with other functions

Public functions are, as a rule, fulfilled, on an exclusivity basis.

Article 21

Accumulation with other public functions

1 – The fulfilment of public functions may be accumulated with other non-paid public functions, provided that the accumulation is of manifest public interest.

2 – The fulfilment of public functions may be accumulated with other paid public functions, provided that the accumulation is of manifest public interest and only in the following cases:

a) Participation in the working groups;
b) Participation in advisory councils and in the monitoring commissions or other monitoring collegiate bodies or control of public monies;
c) Teaching and researching activities of term not higher than that set in order of the members of the Government responsible for finance, public administration and education areas and that, without prejudice to the compliance with the weekly working hours, do not overlap more than one fourth to the work schedule inherent to the main function;
d) Holding of conferences, lectures, short term training actions and other activities of an identical nature.

Article 22

Accumulation with private functions or activities

1 – The fulfilment of public functions shall not be accumulated with private functions or activities, fulfilled on an autonomous or subordinate work system, with or without remuneration, competing, similar or conflicting with public functions.

2 – For the purposes of the provisions set out in the preceding article, are deemed competing, similar or conflicting with public functions the private activities that, having identical content to those of public functions fulfilled, either developed in a permanent or usual manner and are directed at the same recipients' circle.

3 – The fulfilment of public functions may be accumulated with private functions or activities that:

a) Shall not legally be deemed inconsistent with public functions;
b) Shall not be developed in an overlapped schedule, even though partially to that of the public functions;
c) Shall not compromise the neutrality and impartiality requested by the fulfilment of public functions;
d) Shall not cause injury for the public interest or for the legally protected rights and interests of citizens.

4 – In the fulfilment of private authorized functions or activities, public administration's workers shall not perform any act contrary to the service's interests to which they belong or conflict with them.

5 – The breach of provisions set out in the preceding paragraph shall entail the repeal of the authorization to accumulate functions, still representing serious disciplinary offence.

Article 23

Authorization for accumulation of functions

1 – The accumulation of functions under the terms provided for in the preceding articles depends upon prior authorization of the competent entity.

2 – The request to be submitted for the purposes of accumulation of functions shall set out the following indications:

a) Place of the fulfilment of the function or activity to accumulate;
b) Schedule in which it shall be fulfilled, where applicable;

c) Remuneration to receive, where applicable;
d) Autonomous or subordinate nature of the work to be developed and respective content;
e) Justification of the manifest public interest in the accumulation, where applicable;
f) Justification of the inexistence of conflict with public functions, where applicable;
g) Compromise of immediate termination of the function or activity accumulated, in the case of supervening occurrence of conflict.

3 – It is incumbent upon holders of management positions, under penalty of termination of the respective tenure, under the terms of the respective statute, to verify the existence of situations of accumulation of non-authorized functions, as well as to control the compliance with the guarantees of impartiality in the fulfilment of public functions.

Article 24

Specific prohibitions

1 – Workers shall not perform to third parties, by themselves or through an intermediary under an autonomous or subordinate system, services within the scope of study, preparation or financing of projects, applications or requests that shall be submitted to their appraisal or decision or to the decision of bodies or services placed under their direct influence.

2 – Workers shall not benefit personally and unduly of acts or take part in contracts in whose formation process intervene bodies or organic units placed under their direct influence.

3 – For the purposes of provisions set out in the preceding paragraphs, the bodies or services that are deemed placed under direct influence of the worker, are those which:

a) Are subject to the management or supervision power;
b) Fulfil powers by him/her delegated or sub-delegated;
c) Have been by him/her established, or in relation to whose holder has intervened as public employer's representative, for the specific purpose of intervening in the procedures in question;
d) Are integrated, in whole or in part, by workers by him/her designated;
e) Whose holder or workers therein integrated have, less than one year, been benefitted by any remuneration advantage, or obtained scoring related to their performance appraisal, in whose procedure he/she has had intervention;
f) With whom collaborates, under hierarchical parity situation, within the scope of the same body or service.

4 – For the purposes of prohibitions set out in paragraphs 1 and 2, is equivalent to the worker:

a) Spouse, not separated from persons and assets, ascendants and descendants in any degree, collaterals up to the second degree and person who cohabites and shares the same household with him/her, on a non-marital partnership
b) The company in whose capital the worker holds, direct or indirectly, by himself/herself or jointly with persons referred to in the preceding paragraph, a share not lower than 10%.

5 –The breach of duties referred to in paragraphs 1 and 2 constitutes serious disciplinary offence.

6 – For the purposes of provisions set out in the Code of Administrative Procedure, workers shall report to the respective hierarchical superior, before the taking of decisions, acts practiced or contracts concluded as referred to in paragraphs 1 and 2, the existence of situations referred to in paragraph 4.

7 – Provisions set out in article 51 of the Code of Administrative Procedure passed by Decree-Law no. 442/91, of 15 November shall be applicable with due adaptations in the current wording.

CHAPTER II

Public employer

Article 25

Delimitation of the public employer

1 – The public employer is the State or other public legal person that forms public employment relationships under the terms of the present law.

2 – There is succession in the juridical position of public employer when a worker with public employment relationship with a public legal person will perform his/her activity, on a permanent basis, for other public legal person subject to the present law.

3 – For the purposes of application of rules of the Labour Code that depend upon the number of workers, the public employer is equivalent to a company.

Article 26

Plurality of public employers

1 – The public employers may conclude employment contracts, on a plurality of employers' scheme under the terms of the Labour Code.

2 – For the purposes of the scheme referred to in the preceding paragraph, public employers are always deemed under a collaboration relationship.

Article 27

Fulfilment of competencies inherent to the capacity of public employer

1 – The competencies inherent to the capacity of public employer, in the direct and indirect state administration, are fulfilled:

a) In the direct administration, by the top manager of the body or service;
b) In the indirect administration, by the management board of the public legal person.

2 – The competencies inherent to the capacity of public employer, in the local authority administration, are fulfilled:

a) In municipalities, by the mayor of the city hall;
b) In parishes, by the parish council;
c) In municipal services, by the chairman of the board of directors.

CHAPTER III

Human resources planning and management

Article 28

Planning of the human resources management and activity

1 – The public employer shall plan for each budget year the activities of a permanent or temporary nature, taking into consideration the mission, assignments, strategy, objectives set, competencies of the organic units and available financial resources.

2 – The planning referred to in the preceding paragraph shall include possible changes to be introduced in the flexible organic units, as well as the respective workforce list.

3 – For the purposes of preparing the annual recruitment plan of each government department, the public employer shall communicate to the respective General Secretariat or to the body or service responsible for the human resources sectoral management the respective recruitment needs of workers without a public employment relationship or with a fixed-term public employment bond, specifying the number of work posts that it intends to fill, proceeding to its characterisation.

4 – The data referred to in the preceding paragraphs shall be accompanied by the draft budget.

Article 29

Staff lists

1 – The bodies and services predict annually the respective workforce list, taking into account the activities of a permanent or temporary nature, to be developed during their implementation.

2 – The workforce list contains the indication of the number of work posts that the body or service needs for the development of the respective activities, characterized according to:

a) Assignment, competence or activity that its occupier is intended to fulfil or to carry out;
b) Position or career and category corresponding to them;
c) Within each career and, or, category, when indispensable, academic or professional training area of which the occupier shall be holder;
d) Profile of cross-sectional competencies of the respective career or category, regulated by order from the member of the Government responsible for public administration area and complemented by competences associated to the specificity of the work post.

3 – In deconcentrated bodies or services, the workforce list is subdivided in so many lists as the deconcentrated organic units.

4 – The workforce list is approved by the competent entity for approval of the draft budget, and is disclosed in the body or service and posted on the electronic page.

5 – The changes introduced to the workforce lists that entail increase of work posts need prior authorization of the member of the Government to whom reports the body or service, inclusion in the budget and recognition of future sustainability by the member of the Government in charge of finance area.

6 – The provisions set out in the preceding paragraph are not applicable to the change of the workforce list that results from the right to fill the work post in the body or service by the worker

who, under the legal terms shall return to it.

7 – The change to the workforce lists that entails reduction of work posts is substantiated by the body or service reorganization under the terms legally provided for, and shall terminate, firstly, the term public employment relationships.

Article 30

Filling of work posts

1 – The body or service may promote the workers' recruitment needed to the filling of work posts provided for in the workforce lists, under the terms of the present article.

2 – The recruitment shall be made for an indefinite period of time or, on a term basis, according to the permanent or transitional nature of the activity, such as it is set out in the workforce list.

3 – The recruitment is made by open competition procedure restricted to workers' holders of a public employment relationship for an indefinite period of time.

4 - The body or service may also recruit workers with term public employment relationship or without public employment relationship, through a competitive procedure to which workers with and without a public employment relationship may apply, opened under and within the limits set in the global annual map approved by the order referred to in paragraph 6.

5 - During the State Budget preparation phase and for the purposes of approving the annual recruitment plan provided for in paragraph 3 of article 28, the general secretariats or the bodies or services responsible for the human resources sectoral management shall prepare and send to the members of the Government responsible for the areas of finance and public administration a recruitment sectoral proposal, based on identified needs, reasoned and validated by the member of the Government responsible for the respective area, considering:

a) The demonstration of the existence of budgetary availabilities;
b) The identification of the priorities defined in the governmental area, with demonstration of the public policies to be pursued;
c) The identification of the areas with the greatest shortage of human resources, by career and category.

6 — After the approval and entry into force of the State Budget, the members of the Government responsible for the areas of finance and public administration shall approve, during the first quarter of the respective budgetary year, by means of order published in the Official Gazette, the consolidated annual global map of authorised recruitments, containing the work posts broken down by:

a) Government department;
b) Body or service;
c) Career and category;
d) Mode of employment relationship;
e) Indefinite or fixed term.

7 – In duly justified exceptional cases, the members of the Government in charge of finance and public administration areas may authorize the holding of recruitment procedures beyond the limits set out in the annual global map referred to in the preceding paragraph.

8 – The workers' recruitment with a term public employment relationship or without public employment relationship may still occur in other situations particularly provided for in the law,

by virtue of duly justified scientific, technical or artistic ability, preceded by opinion referred to in the previous paragraph.

9 – The opinion referred to in preceding paragraphs is expressly mentioned in the recruitment procedure.

10 – The filling of work posts may still occur by consolidation of the mobility or temporary transfer due to public interest, abiding by the terms provided for in the present law.

Article 31

Budgeting and management of staff expenditure

1 – The budget of bodies or services shall predict the following charges related to workers:

a) Charges related to remunerations;
b) Charges related to work posts predicted in the workforce lists approved and for which the recruitment is foreseen;
c) Charges resulting from changes in the pay step;
d) Charges related to performance bonuses.

2 – It is incumbent upon the top manager of the body or service to decide on the maximum amount of each one of the types of charges, and may opt, without prejudice to provisions set out in paragraph 7 of article 156, for the full assignment of budget allocations corresponding to only one of the types.

3 – The decision referred to in the preceding paragraph is taken within the time limit of 15 days after the commencement of the budget implementation, and shall discriminate the allocations assigned to each type of charge.

4 – The decision referred to in preceding paragraphs may be changed throughout the budget implementation, in accordance with provisions set out in the following paragraphs.

5 – When the total budget appropriations destined to bear the type of charges referred to in subparagraph b) and c) of paragraph 1 is not spent, the remaining part is added to those intended to bear charges referred to in subparagraph d) of the same paragraph.

6 – In the course of the budget implementation, the amounts budgeted and which are referred to in subparagraphs b), c) and d) of the preceding paragraph shall not be used to tackle and cover possible budget insufficiencies within the framework of remaining staff expenditure.

7 – In the case of permanent non-filling of work posts provided for in the workforce list and previously filled, the corresponding budget appropriations may be added to the amount provided for the charges related to workers' recruitment.

Article 32

Conclusion of service delivery contracts

1 – The conclusion of task contracts and successive performance of services contract may only take place when cumulatively:

a) If it deals with performance of non-subordinate work, for which it is revealed inappropriate the recourse to any type of public employment relationship;
b) The legal system of purchase of services is observed;

c) The regularity of the tax situation is proven by the service provider with regard to social security.

2 – Without prejudice to requirements referred to in subparagraphs b) and c) of the preceding paragraph, the conclusion of specific works of exceptional nature contracts and successive performance of activities contracts of a liberal profession object of a fixed monthly pay shall depend upon prior favourable opinion of the members of the Government responsible for finance and public administration areas, regarding the meeting of the requirement provided for in subparagraph a) of the preceding paragraph, and the terms and legal steps of that opinion shall be regulated by order of the same members of the Government.

3 – The members of the Government referred to in the preceding paragraph may, exceptionally, authorize the conclusion of a maximum number of the aforementioned contracts, in terms to be defined by order provided for in the preceding paragraph, provided that, along with the compliance with provisions set out in paragraph 1, are not exceeded the contractual time limits initially provided for and the global annual financial charges, that shall bear the referred to contracts, are entered in the respective budget line of the body or service.

4 – The verification, through auditing report undertaken by the Inspectorate General for Finance (IGF) in articulation with the Directorate General for Administration and Public Employment (DGAEP), of the validity of service delivery contracts for carrying out work subordinate is equivalent to the recognition by the body or service of the need to fill a work post with recourse to the formation of a public employment relationship for an indefinite period of time or, on a term basis, according to characterization resulting from that auditing, determining:

a) The change of the workforce list of the body or service, so as to predict that work post;
b) The publicizing of the open competition procedure for the formation of the public employment relationship, under the terms provided for in the present law.

TITLE II

Formation of the employment relationship

CHAPTER I

Recruitment

Article 33

Open competition procedure

1 – The recruitment is decided by the top manager of the body or service.

2 – The recruitment is made by open competition procedure publicized, namely through the publication in the 2nd Series of the Official Gazette.

3 – The publicizing of the open competition procedure shall include the reference to the number of work posts to be filled and respective characterization, in accordance with responsibility, competence or activity, career, category and, when indispensable, the corresponding academic or professional training area.

4 – For the purposes of provisions set out in the preceding paragraph, the publicizing of the procedure makes reference to:

a) Academic training area, when there is more than one in the same qualification level, in careers of functional complexity classified as grade 3;
b) The professional training area when the integration in the career shall not depend or not depend exclusively upon the academic qualifications, in careers of functional complexity classified as grade 1 or 2.

Article 34

Requirement of academic qualification level

1 – Without prejudice to provisions set out in the following paragraphs, may only be applicant for the open competition procedure those who are holders of academic qualification level and, where applicable, the training area, corresponding to the grade of functional complexity of the career and category characterizing the work post for which filling the procedure is publicized.

2 – Exceptionally, the publicizing of the procedure may predict the possibility of application of those who are not holder of the qualification required, since they consider having training and, or, professional experience needed and sufficient for the replacement of that qualification.

3 – The replacement of the qualification pursuant to the terms referred to in the preceding paragraph shall not be allowable when, for the fulfilment of a determined profession or function, involved in the characterization of work posts in question, special law requires a qualification or the meeting of certain requirements.

4 – The Selection Committee analyses, preliminary, the training and, or, the professional experience and decides on the admission of the applicant for the open competition procedure.

5 – In the case of admission, the decision, accompanied by the full content of justification shall be notified to other applicants.

Article 35

Other recruitment requirements

1 – The following workers may apply for the procedure intended for the recruitment for uni-category careers or for the category lower than the multi-category careers:

a) Workers integrated in the same career, to fulfil or carry out different responsibility, competence or activity, of the body or service in question;
b) Workers integrated in the same career, to fulfil or carry out any responsibility, competence or activity, of other body or service or who are under a requalification situation;
c) Workers integrated in other careers;
d) Where appropriate, workers fulfilling the respective positions under a tenure or who are subject to other term public employment relationships and persons without previously formed public employment relationship.

2 – Without prejudice to provisions set out in special law, may still apply for the procedure intended to the recruitment for categories higher than multi-category careers, workers integrated in the same career, in different category, of the body or service concerned, and who are fulfilling or carrying out identical responsibility, competence or activity.

Article 36

Selection methods

1 – Without prejudice to provisions set out in the following paragraphs, the compulsory selection methods are as follows:

a) Knowledge tests, intended to appraise technical competences needed to the fulfilment of the function;
b) Psychological assessment, intended to assess other competences required for the fulfilment of the function.

2 – In the recruitment of applicants who are fulfilling or carrying out responsibility, competence or activity characterizing the work post in question, as well as in the recruitment of applicants under a requalification situation that, immediately before, have fulfilled that responsibility, competence or activity, the selection methods are as follows:

a) Curricular appraisal, focusing particularly on the functions fulfilled in the category and in the fulfilment and carrying out of the responsibility, competence or activity in question and the performance level therein attained;
b) Appraisal interview of competences required for the fulfilment of the function.

3 – The methods referred to in the preceding paragraph may be excluded by applicants through written declaration; in this case the methods provided for the other applicants are applied to them.

4 – Other selection methods may be optionally adopted, namely the professional internship or other legally provided for methods.

5 – Without prejudice to provisions set out in special law, the public employer may be limited to use the selection methods referred to in subparagraph a) of paragraph 1 and in the subparagraph a) of paragraph 2, in open competition procedures for the formation of the public employment relationship for an indefinite period of time, whose applicants are exclusively workers with public employment relationship for an indefinite period of time previously formed.

6 – The public employer may be limited to use the curricular assessment method in open competition procedures for the formation of the term public employment relationships.

Article 37

Open competition procedure legal steps

1 – The open competition procedure is simplified and urgent, abiding by the following principles:

a) The composition of the Selection Committee of the open competition procedure integrates workers of the public employer, from other body or service and, when the training area required reveals convenience, of private entities;
b) There are no acts or preparatory lists of the final ordering of applicants;
c) The final ordering of applicants is unitary, even though different selection methods have been applied to them;
d) The recruitment is made by decreasing order of the final ordering of applicants placed under requalification situation and, excluded these ones from the other applicants.
e) The competition procedure and the selection methods application are carried out preferably by electronic means.

2 – The open competition procedure legal steps, including that of the procedure to form recruitment reserves in each body or service, and that of the centralised recruitment procedure to meet the needs of a group of public employers, are regulated by an ordinance of the member of the Government responsible for public administration area.

3 – When the legal steps set pursuant to terms set out in the preceding paragraph reveals to be inappropriate and mismatched, the open competition procedure legal steps may for a special career be regulated by order of the member of the Government in charge of Public Administration area along with the member of the Government fulfilling management or supervision powers over the body or service in whose workforce list the career estimate is contained.

Article 38

Determination of the pay step

1 – When a work post is in question regarding to which the type of public employment relationship is the contract, the pay step of the worker recruited in one of the pay steps of the category is the object of negotiation with the public employer, which occurs:

a) Immediately after the term of the open competition procedure; or
b) when the approval in a specific training course or the obtaining of a certain academic degree or professional certificate, as per the subparagraph c) of paragraph 4 of article 84, that result before the conclusion of the contract.

2 – For the purposes of provisions set out in subparagraph d) of paragraph 1 of the preceding article, the negotiation with applicants placed under a requalification situation precedes that which may take place with other applicants.

3 – The negotiation between the public employer and each one of the applicants is made in writing, by the order in which they are in the final ordering, and the workers with public employment relationship shall previously inform the employer of the career, category and pay step held on that date.

4 – In exceptional cases, duly grounded, namely when the high number of applicants makes the negotiation unfeasible, the public employer may opt for sending an adhesion proposal to a determined pay step to all applicants.

5 – The agreement or adhesion proposal is the object of written justification by the public employer.

6 – Without prejudice to provisions set out in the following paragraph, the absence of an agreement with an applicant determines the negotiation with that who follows him/her in the final ordering of applicants, and may not be proposed to the subsequent applicant in the ordering pay step higher than the maximum proposed and not accepted by any of the applicants who precede him/her in that ordering.

7 – The public employer shall not propose the first pay step to the applicant who is holder of a university degree or higher academic degree whenever the recruitment of a worker is in question for a work post with functional content corresponding to the professional general career.

8 — The public employer may not propose a position lower than the 4th pay step to the candidate who holds an academic degree of doctor when it is in question the recruitment of an worker for a work post with functional content corresponding to that of the professional general

career.

9 – After the termination of the open competition procedure, the documentation related to the respective negotiable process is made public and is of free access.

10 – The provisions set out in the preceding paragraphs may be applicable, by way of special law, when a work post is in question in relation to which the type of public employment relationship is the appointment.

11 – If there is not the possibility provided for in the preceding paragraph, the appointed worker's pay step takes place in the/or in one of the pay steps of the category that have been publicized.

Article 39

Course in Advanced Studies in Public Management

(Repealed)

Article 39 - A

Advanced training programme for workers in public functions

1 — The centralised recruitment for the professional general career is followed by an advanced training program, abbreviated as CAT.

2 – The CAT is of mandatory frequency for professionals placed in the various bodies and services following centralised recruitment, constituting, in these cases, the initial training provided for in article 7 of Decree-Law No 86-A/2016 of 29 December, which integrates the trial period under the terms of the present law, and aims to ensure high levels of qualification of workers in areas common to all Public Administration, as well as in specialised fields for the different professional profiles.

3 – The CAT may also be attended by workers to be integrate into the professional general career recruited through another modality of competition procedure, as well as by other workers and managers, under the terms to be defined in the ordinance referred to in the following paragraph.

4 – The CAT is regulated by ordinance of the member of the Government responsible for the public administration area, and the Directorate-General for the Qualification of Workers in Public Functions (INA) shall be responsible for ensuring its implementation, in coordination with public employers.

Article 39 - B

Obtaining doctor's degree

1 – The worker with a public employment relationship, integrated in the professional general career, who has or will obtain a doctor's degree is positioned:

a) In the 4th pay step, level 23 of the single pay scale or;
b) In the pay step immediately following the one he or she is in, when he or she is already positioned in the 4th pay step or higher.

2 – The worker with a public employment relationship, integrated in a career of degree of

complexity 3, who has or will obtain a doctoral degree is positioned:

a) In the pay step, even if automatically created for the purpose, corresponding to level 23 of the single pay scale when the current remuneration is lower;
b) In the pay step immediately following that one in which he or she is placed, within the same category, when he or she is already positioned in a pay step corresponding to level 23 of the single pay scale or higher.

3 - Whenever, by applying the provisions of the preceding paragraphs, the worker changes his or her pay step to the one immediately following that one in which he or she is positioned or to a pay step automatically created for this purpose that is lower than the pay step immediately following that in which he or she is positioned, the worker shall retain the points and corresponding qualitative mentions from the performance appraisal for the purposes of future pay step changes.

4 - Paragraph 2 is not applicable to careers of degree of complexity 3 in which the holding of a doctor's degree is required or the obtaining of that academic degree is valued in the development of such careers.

CHAPTER II

Form, experimental period and nullities

SECTION I

Form

Article 40

Form of the employment contract in public functions

1 – The contract is subject to a written form and shall contain the signature of the parties.

2 – The contract shall still set out, at least, the following indications:

a) Name or business name and domicile or head office/headquarters of the contracting parties;
b) Type of contract and respective term where applicable;
c) Activity contracted, career, category and worker's remuneration;
d) Place and normal working hour's period;
e) Date of the commencement of the activity;
f) Date of the conclusion of the contract;
g) Identification of the entity that authorized the contracting.

3 – In the absence of the indication required by subparagraph e) of the preceding paragraph, the contract is deemed to commence on the date of its conclusion.

4 – When the contract shall not contain the signature of the parties or any of the indications referred to in paragraph 2, the public employer shall amend it, within the time limit of 30 days calculated as from the date of the worker's request for the purpose.

5 – Without prejudice to provisions set out in paragraph 1, the members of the Government responsible for finance and public administration areas may, by order, approve official models

of contracts, as well as predict their computerization and dematerialization.

Article 41

Form of appointment

1 – The appointment assumes the form of an order and may consist in a mere declaration of agreement with a prior proposal or information that, in this case, is part and parcel of the act.

2 – The appointing order sets out a reference to legally enabling provisions and existence of appropriate budget commitment.

Article 42

Acceptance of the appointment

1 – The acceptance is the public and personal act by which the appointee declares to accept the appointment.

2 – The acceptance is formalized by the respective term and the model is approved by order of the member of the Government responsible for public administration area.

3 – In the act of acceptance, the worker shall take the following oath:

«I solemnly swear that I will faithfully perform the office with which I am invested, with respect to the duties that result from the Constitution and the law»

4 – The acceptance document shall be signed by the competent body for the appointment.

5 – The competence provided for in the preceding paragraph may, at the request of the body or service, even though, on the initiative of the worker, be performed abroad by the diplomatic or consular authority.

6 – The competent entity for signing the acceptance document shall not under penalty of civil, financial and disciplinary liability, refuse to do so.

7 – Without prejudice to provisions set out in special law, the non-acceptance of the appointee shall entail automatic repeal of the appointment act, which shall not be repeated in the procedure in which has been practiced.

Article 43

Time limit for acceptance

1 – Without prejudice to provisions set out in special law, the time limit for acceptance of the appointment is of 20 days, calculated, on a continuous basis, as from the date of publicizing of the appointment act.

2 – In duly justified cases, namely illness and holidays, the time limit provided for in the preceding paragraph may be extended, for definite periods, by the competent entity for signing the respective document.

3 – In cases of absence within the framework of the parenthood scheme and absences given due to accident at work or occupational disease, the time limit provided for in paragraph 1 is automatically extended for the term of those situations.

Article 44

Effects of acceptance

1 – The acceptance determines the commencement of functions for all legal purposes, namely those related to receiving remuneration and calculation of the length of service.

2 – In cases of absence due to maternity, paternity or adoption and absences owing to accident at work and occupational disease, the receiving of the remuneration arising from a permanent appointment has retroactive effects as from the date of publicizing of the acceptance act.

3 – In cases provided for in paragraph 3 of the preceding article, the calculation of the length of service arising from the permanent appointment has retroactive effects as from the date of publication of the respective act.

SECTION II

Trial period

Article 45

General rules

1 – The experimental period corresponds to the initial time of fulfilment of functions of the worker, in the forms of employment contract in public functions and appointment, and is intended to prove if the worker has the competences required for the work post, which he/she will fill.

2 – The experimental period has two forms:

a) Experimental period of the employment relationship, that corresponds to the initial time of implementation of the public employment relationship;
b) Experimental period of function, that corresponds to the initial time of fulfilment of a new function in a different work post, by a worker who is already holder of a public employment relationship for an indefinite period of time.

3 – Once the experimental period of the employment relationship has been unsuccessfully completed, this one ceases automatically its effects, without the right to any indemnity or compensation of any kind whatsoever.

4 – Once the experimental period of the function has been unsuccessfully completed, the worker returns to the juridical-functional situation previously held.

5 – By justified act of the competent entity, the experimental period may be terminated before the respective term, when the worker manifestly shows not to have the competences required for the work post that he/she fills.

Article 46

Worker's appraisal during the trial period

1 – During the experimental period, the worker is coached by a Selection Committee, specially composed for this purpose that makes, at the end, the worker's appraisal.

2 – In term public employment relationships, the Selection Committee of the experimental

period is replaced by the line hierarchical superior of the worker.

3 – The final appraisal takes into consideration the data that the Selection Committee has collected, the report that the worker shall submit and results of training actions attended.

4 – The final appraisal is expressed in a scale ranging from 0 to 20 scores, and the experimental period is deemed successfully completed when the worker has achieved an appraisal not lower than 14 or 12 scores, according to it deals with or not, respectively, of career or category of degree 3 of functional complexity.

5 – The term of the experimental period is marked by a written act that shall indicate the result of the final appraisal.

6 – The rules provided for in the general law on the open competition procedure for the purposes of recruitment of workers are applicable, with due adaptations, to the setting up, composition, functioning and competence of the Selection Committee, as well as to the approval, ratification and administrative objection as to the results of the final appraisal.

Article 47

Termination by the worker

During the experimental period, the worker may terminate the contract without prior notice nor has to invoke just cause, having no right to compensation.

Article 48

Length of service during the trial period

1 – The experimental period is taken into account, for all legal effects, as effective and actual length of service.

2 – The length of service elapsed in the experimental period for a worker holder of a public employment relationship for an indefinite period of time is calculated, for all legal purposes, under the following terms:

a) In the case of the experimental period has been successfully completed, in the career and category where it has taken place.
b) In the case of the experimental period has been unsuccessfully completed, in the career and category to which the worker returns, where this is appropriate.

Article 49

Trial period term

1 – In the employment contract in public functions for an indefinite period of time, the experimental period has the following term:

a) 90 days, for workers integrated in the Auxiliary Staff career and in other careers or categories with identical grade of functional complexity;
b) 180 days, for workers integrated in the assistant technical career and in other careers or categories with identical grade of functional complexity;
c) 240 days, for workers integrated in the Professional career and in other careers or categories with identical grade of functional complexity.

2 – In the term employment contract in public functions, the experimental period has the following duration:

a) 30 days, in the fixed term temporary contract of term equal or higher than six months and in the unfixed term temporary contract whose term is predicted to be higher than that limit.
b) 15 days, in the fixed term temporary contract of term lower than six months and in the unfixed term temporary contract whose term is predicted not be higher than that limit.

3 – In the absence of special law to the contrary, the experimental period in the permanent appointment has one-year term.

4 – The legal texts dealing with special careers may establish other term for the respective experimental period.

Article 50

Calculation of the trial period

1 – The beginning of the experimental period is calculated as from the commencement of the performance by the worker, comprising training actions provided by the public employer or attended by his/her determination, provided that they do not exceed half of the experimental period.

2 – For the purposes of calculation of the experimental period, absent days even though justified, leaves and releases as well as the suspension of the employment relationship are not taken into account.

Article 51

Reduction and exclusion of the trial period and termination of the contract

1 – The term of the experimental period may be reduced by collective labour regulation instrument.

2 – The experimental period shall not be excluded by collective labour regulation instrument.

3 – The provisions of the contract or of the collective labour regulation instrument are null, that establish any indemnity in the case of termination of the employment relationship during the experimental period.

SECTION III

Nullity of the public employment relationship

Article 52

Specific causes of nullity of the public employment relationship

In addition to the common causes, there are also specific causes of total or partial nullity of the public employment, which are as follows:

a) Declaration of nullity or annulment of the final decision of the open competition procedure that has given rise to the formation of the employment relationship;

b) Declaration of nullity or annulment of the final decision of the open competition procedure that has led to the filling of a new work post by the worker.

Article 53

Effects of nullity

1 – The public employment relationship declared null or annulled takes effects as valid in relation to the time in which has been executed.

2 – The provisions set out in the preceding paragraph are applicable to the amending act of the employment relationship that is invalid, provided that it shall not affect the guarantees of the worker in public functions.

3 – The nullity or the partial annulment shall not determine the nullity of the whole employment relationship, save when it is shown that this one would have not been formed without the vitiated part.

4 – The part of the content of the public employment relationship that breaches imperative rules is deemed replaced by those ones.

Article 54

Nullity and termination of the employment relationship

1 – The termination rules are applicable to the extinctive fact occurred before the declaration of nullity or annulment of the public employment relationship.

2 – If it is declared null or annulled the term employment relationship that has already ceased, the indemnity has as a limit the amount established in articles 301 and 305 respectively for unlawful dismissal or termination without prior notice.

3 – The indemnity scheme provided for in articles 300 and 305 is applicable respectively for the unlawful dismissal or termination without prior notice to the invocation of nullity by the bad faith part, being the other of good faith, followed by immediate termination of the performance of work.

4 – For the purposes provided for in the preceding paragraph, the bad faith consists of the formation or maintenance of the employment relationship with awareness of the nullity cause.

Article 55

Validation

Once the nullity cause has been ceased during the execution of the public employment relationship, this one is deemed validated since the commencement of the execution.

TITLE III

Special forms of public employment relationship

CHAPTER I

Fixed or unfixed term temporary employment contract in public functions

Article 56

General rules

1 – The fixed or unfixed temporary term may be affixed to the employment contract in public functions, pursuant to the terms provided for in the following articles.

2 – In all matters that are not regulated in the present law, the Labour Code system in which it is not incompatible with provisions set out in the present law is applied additionally to the fixed or unfixed term temporary employment relationship.

3 – The fixed or unfixed term temporary employment relationship in public functions system shall not be excluded by collective labour regulation instrument.

4 – The provisions set out in the present chapter and the Labour Code system in matters pertaining to fixed or unfixed term temporary employment relationship are applied, with due adaptations, to the appointment fulfilled on a transitional basis.

5 – The formation of the fixed or unfixed term temporary employment relationship in public functions shall abide by an open competition procedure, whose selection methods are those provided for in paragraphs 2 to 6 of article 36.

6 – The rules related to careers, mobility and placement under requalification situation are not applicable to the fixed or unfixed term temporary employment relationship.

Article 57

Grounds for the conclusion of fixed or unfixed term temporary employment contract in public functions

1 – Only may be posted the term fixed or unfixed temporary contract to the employment contract in public functions in the following substantiated situations:

a) Direct or indirect replacement of the absent worker or that, for any reason of any kind whatsoever is temporarily prevented from fulfilling service;
b) Direct or indirect replacement of the worker in relation to whom an appraisal action is pending in court concerning the lawfulness of the dismissal;
c) Direct or indirect replacement of the worker under an unpaid leave situation;
d) Replacement of a worker working, on a full time basis, who will change to work, on a part-time basis, for a determined period;
e) In order to ensure urgent needs of functioning of public employer entities;
f) Performance of an occasional task or determined service precisely defined and not long-lasting;
g) For the fulfilment of functions in temporary structures of public employer entities;
h) To cope with exceptional increase of activity of body or service;

i) For the development of projects not included in the normal activities of bodies or services;
j) When the training or the obtaining of an academic degree or professional certificate, of workers within the framework of public employer entities involves the performance of subordinate work;
k) When it deals with bodies or services, on a setting up system.

2 – For the purposes of provisions set out in the subparagraph a) of the preceding paragraph, the following workers are deemed absent, namely:

a) Those who are under mobility situation;
b) Those who are under a tenure;
c) Those who are fulfilling functions in other career, category or body or service in the course of the experimental period.

3 – The employment contract in public functions may only be concluded on an unfixed term temporary basis in situations provided for in subparagraphs a) to d) and f) to k) of paragraph 1.

4 – The conclusion of employment contracts on a fixed or unfixed temporary term is prohibited for the replacement of a worker placed under a requalification situation.

5 – The contracts for the fulfilment of functions in bodies or services referred to on subparagraph k) of paragraph 1 are compulsorily concluded on a fixed or unfixed temporary term pursuant to terms provided for in a special law.

Article 58

Form

1 – Besides the general requirements of form, the fixed or unfixed temporary term contracts shall set out the following indications:

a) The justifying reason of the term stipulated;
b) The date of the respective termination, if the contract is of a fixed temporary term basis.

2 – For the purposes of provisions set out in subparagraph a) of the preceding paragraph, the indication of the justifying reason for affixing the term shall be made by express mention of facts that integrate it, and a relationship between the justification invoked and the term stipulated shall be established.

Article 59

Successive contracts

1 – The termination, for a reason not attributable to the worker, of the term contract shall prevent a new term admission for the same work post before a period of time equivalent to a third of the contract term has been elapsed, including its renewal.

2 – The provisions set out in the preceding paragraph are not applicable to the following cases:

a) New absence of the worker replaced, when the term contract has been concluded for his/her replacement;
b) Exceptional increases of activities of the body or service after the termination of the contract.

Article 60

Duration of fixed-term contract

1 – The fixed temporary term contract shall last for the period agreed, and shall not exceed three years, including renewals, nor shall be renewed more than twice, without prejudice to provisions set out in special law.

2 – The unfixed temporary term contract shall last for the time needed for the replacement of the absent worker or for the completion of a task or service whose execution justifies the conclusion.

3 – In the case of subparagraph e) of paragraph 1 of article 57, the contract shall not have term higher than one year, including renewals.

Article 61

Renewal of the contract

1 – The fixed temporary term contract shall not be subject to automatic renewal.

2 – The renewal of the contract shall be subject to the meeting of the material requirements of its conclusion, as well as the written form.

3 – Single contract shall be deemed that which is the object of renewal.

Article 62

Stipulation of the time limit lower than six months

1 – In the contract concluded for a time limit lower than six months, the term stipulated shall correspond to the term predictable of the task or service to be carried out.

2 – The contracts concluded for a time limit lower than six months may be renewed once, for a period equal or lower than that initially contracted.

Article 63

Irregular term contracts

1 – The conclusion or the renewal of fixed or unfixed temporary term contracts with breach of provisions set out in the present law shall entail their nullity and gives rise to civil, disciplinary and financial liability of top managers of bodies or services who have concluded or renewed them.

2 – The fixed or unfixed temporary term contract shall not be changed in no case into an open-ended contract for an indefinite period of time, expiring at the end of the maximum time limit of term predicted, including renewals, or, if it deals with unfixed temporary term contract, when terminates the situation that has justified its conclusion.

Article 64

Information

1 –The public employer shall report, within the maximum time limit of five working days, to the

workers' committees and representative trade union associations, namely in which the worker is affiliated, the conclusion, with indication of the respective legal ground, and the termination of the term contract.

2 – The public employer shall report, within the maximum time limit of five working days, to the entity that has competence in the equal opportunities area between men and women the reason for non-renewal of the term contract, whenever a pregnant, breastfeeding worker or who has recently given birth is in question.

3 – The public employer shall disclose information related to the existence of permanent work posts available in the body or service.

Article 65

Social obligations

The worker admitted on a term basis is included, according to a calculation undertaken with recourse to the average of the former calendar year, in the total of workers of the body or service, for the purposes of determination of social obligations related to the number of workers at the service.

Article 66

Precedence in the admission

1 – The worker contracted, on a term basis, who applies for, under the legal terms, an open competition procedure for recruitment publicized during the execution of the contract or until 90 days after the termination of the same, for filling a work post with characteristics identical to that which has been contracted, in the mode of contract for an indefinite period of time, takes precedence, in the list of final ordering of applicants, in the case of equality in the classification.

2 – The infringement of provisions set out in the preceding paragraph obliges the public employer to indemnify the worker to the amount corresponding to three months of basic remuneration.

3 – It is incumbent upon the worker to claim breach of the preference provided for in paragraph 1 and to the public employer the proof of the compliance with provisions set out in the same paragraph.

Article 67

Equal treatment

1 – The worker contracted, on a term basis, has the same rights and is attached to the same duties of the permanent worker in a comparable situation, save if objective reasons justify differentiated treatment.

2 – The employer shall provide vocational training to the worker contracted on a term basis.

CHAPTER II

Other special types of public employment relationship

Article 68

Reference

1 – Without prejudice to provisions set out in the present law, the system provided for in the Labour Code in matters pertaining to part-time work and telework is applicable to workers' holders of a public employment relationship.

2 – The public employer shall not exclude the recourse to part-time work by regulation.

3 – The tenure and the intermittent work provided for in the Labour Code are not applicable to the public employment relationship.

Article 69

Part-time work and telework for workers appointed

1 – The application of the part-time system and the telework to workers appointed may be determined by the employer upon worker's request.

2 – Regarding workers with appointment employment relationship, the public employer may, by regulation, establish for the admission, on a part-time system, preferences in favour of workers with family responsibilities, workers with reduced capacity for work, disabled person or with chronic disease and workers attending middle or higher education establishments.

TITLE IV

Content of the public employment relationship

CHAPTER I

Rights, duties and guarantees of the worker and public employer

SECTION I

General provisions

Article 70

General duties of the public employer and the worker

1 – The public employer and the worker, in the compliance with the respective obligations, as well as in the fulfilment of the corresponding rights, shall act with good faith.

2 – The public employer and the worker shall collaborate with a view to obtaining service quality and productivity, as well as increasing human, professional and social promotion of the worker.

Article 71

Public employer's duties

1 – Without prejudice to other obligations, the public employer shall:

a) Respect and treat with cordiality, courtesy, good manners and probity the worker;
b) Timely pay the remuneration, that shall be fair and appropriate to the work;
c) Provide good working conditions, from a physical and moral perspective;
d) Contribute to increasing the productivity level of the worker, namely providing vocational training;
e) Respect the technical autonomy of the worker who fulfils activities whose regulation or professional ethics so requires it;
f) Enable the performance of positions in representative workers 'organizations;
g) Prevent risks and occupational diseases, taking into account the protection of worker's safety and health, and shall compensate him/her for damage resulting from accidents at work;
h) Take, in relation to the safety and health at work, the measures arising, for the body, service or activity from the application of legal and conventional requirements in force;
i) Provide the worker with information and training appropriate to the risk prevention of accident and disease;
j) Keep permanently updated the record of the staff in each one of the bodies or services, with indication of names, birth and admission dates, forms of employment relationship, categories, promotions, and remunerations, dates of commencement and term of the holidays and absences that shall entail loss of remuneration or reduction of the days of holidays.
k) Adopt codes of good conduct to prevent and combat harassment at work and initiate disciplinary proceedings when aware of alleged situations of harassment at work.

2 – The public employer shall provide the worker with vocational training actions appropriate to his/her qualification, pursuant to special legislation.

Article 72

Worker's guarantees

1 – The public employer is forbidden to:

a) Be opposed, in any way, to the worker exercise his/her rights, as well as a to take disciplinary penalties or treat him/her unfavourably by virtue of such exercise;
b) Prevent, unjustifiably, the performance of actual and effective work;
c) Exercise pressure on the worker so that may influence unfavourably in his/her own working conditions or of the colleagues;
d) Reduce the remuneration, save in cases provided for in the law;
e) Downgrade the worker's category, save in cases provided for in the law;
f) Subject the worker to mobility, save in cases provided for in the law;
g) Transfer workers from the own workforce list for third parties that over those workers fulfil authority and management powers specific of the public employer or for a person for him/her indicated, save in cases specially provided for;
h) Oblige the worker to acquire goods or to use services delivered by the public employer or by a person by him/her indicated;
i) Exploit, for financial gain, any canteens, cafeterias, office supplies services and facilities or other establishments directly related to the work, for supply of goods or delivery of

services to workers;

j) Terminate the employment relationship and readmit the worker, even with his/her agreement with the aim of harming him/her as to rights or guarantees resulting from seniority.

2 – Workers are entitled to attend training and further training actions necessary for their professional development, including those needed for the renewal of the professional titles required for the performance of the functions integrated in the functional content of the respective careers.

3 - It is considered included in the provisions of the preceding paragraph:

a) The reimbursement of compulsory training costs whenever this is not directly provided by the public employer;

b) The expenses incurred in obtaining the enabling title, when subsequent to the establishment of the legal public employment relationship and when it occurs because of it or in the interest of it.

Article 73

Worker's duties

1 – The worker is subject to duties provided for in the present law, in other legal texts and regulations and in the collective labour regulation instrument applicable to him/her.

2 – The general duties of workers are as follows:

a) Duty of pursuit for the public interest;
b) Duty of neutrality;
c) Duty of impartiality;
d) Duty of information;
e) Duty of care;
f) Duty of obedience;
g) Duty of loyalty;
h) Duty of correctness;
i) Duty of assiduity;
j) Duty of timeliness.

3 – The duty of pursuit for the public interest consists of its defence, in the respect for the Constitution, by laws and rights and interests legally protected of citizens.

4 – The duty of neutrality consists of not taking full direct or indirect, cash or other advantage, for himself/herself or for a third party, of functions fulfilled.

5 – The duty of impartiality consists of fulfilling functions with equidistance in relation to interests with which may be faced, without discriminating positive or negatively neither of them, from the point of view of respect for citizens' equality.

6 – The duty of information consists of providing to the citizen, under the legal terms, with information whenever requested by him/her, with reservation of that which in those terms shall not be disclosed.

7 – The duty of care consists of being aware of and applying legal and regulatory rules and orders and instructions given by hierarchical superiors, as well as fulfilling functions in accordance with objectives that have been set and employing competences that have been deemed appropriate.

8 – The duty of obedience consists of following and complying with orders given by rightful hierarchical superiors, given for the service object and with legal form.

9 – The duty of loyalty consists of fulfilling functions with subordination to objectives of the body or service.

10 – The duty of correctness consists of dealing with respect users of bodies or services and other workers and hierarchical superiors.

11 – The duties of assiduity and timeliness consist of appearing before the service and continuously and regularly attending it in the hours that are designated.

12 – The worker has the duty to attend training and further training actions in the activity where fulfils functions, of which may be only dispensed with, on a reasonable ground.

13 – In the requalification situation, the worker shall abide by the special duties inherent to that situation.

SECTION II

Public employer's powers

Article 74

Management power

It is incumbent upon the public employer, within the limits resulting from the public employment relationship and the rules governing it, to set the terms in which the work shall be performed.

Article 75

Internal regulation of the body or service

1 – The public employer draws up internal regulations of the body or service containing rules concerning organization and work discipline.

2 – In the drawing up of an internal regulation of the body or service the workers' committees are heard or, in its absence, when there are, the trade union commission or inter-trade union or trade union representatives.

3 – The public employer shall publicize the content of the internal regulation of the body or service, namely by affixing it in the headquarters of the body or service and in workplaces, as well as on the electronic pages of the organization or service, so as to enable its full knowledge, at any time, by workers.

4 – The drawing up of the internal regulation of the body or service concerning determined issues may be made compulsory by collective labour regulation instrument.

Article 76

Disciplinary power

The public employer has disciplinary power over the worker at his/her service, while the

public employment relationship lasts, without prejudice to article 176.

SECTION III

Agreements on limitation of freedom of work

Article 77

Non-competition pact

1 – The agreements and clauses of collective labour regulation instrument are null that, in any way, may harm the exercise of the freedom of work after the termination of the public employment relationship.

2 – However, it is lawful, the agreement or clause by which the activity of the worker is limited in the maximum period of two years subsequent to the termination of the employment relationship, if the following conditions cumulatively shall occur:

a) If such agreement is set out, by written form, in the employment contract in public functions or of termination agreement of the employment relationship;
b) If it deals with activity whose performance may actually cause injury to the worker;
c) A remuneration is granted to the worker during the limitation period of his/her activity that may undergo equitable reduction, to the amount equivalent to that which the public employer has spent with his/her vocational training.

3 – In the case of dismissal declared unlawful or of termination with just cause by the worker for reasons based on an unlawful act by the public employer, the amount of the remuneration referred to in subparagraph c) of the preceding paragraph shall be increased up to the equivalent to the basic remuneration due at the moment of termination of the employment relationship, under penalty of not being possible to be invoked the non-competition clause.

4 – The amounts received by the worker for the fulfilment of any professional activity initiated after the termination of the employment relationship are deducted in the remuneration amount referred to in the preceding paragraph, until the amount set pursuant to subparagraph c) of paragraph 2.

5 – If it deals with a worker assigned to an activity whose nature supposes special relationship of trust or with access to particularly sensitive and classified information at the competition level, the limitation referred to in paragraph 2 may be extended for until three years.

Article 78

Permanence pact

1 – It is lawful the agreement by which the worker and the public employer agree, without reduction of remuneration, the obligation to provide service during certain time limit, not higher than three years, as remuneration of extraordinary expenses demonstrably incurred by the public employer in the worker's vocational training, who may be released himself/herself, by giving back the amounts spent.

2 – In the case of termination of the employment relationship by the worker with just cause or when the dismissal has been declared unlawful, and the worker does not opt for the integration, there is not the obligation to give back the sum referred to in the preceding paragraph.

CHAPTER II

Activity, workplace and careers

SECTION I

General provisions

Article 79

Functions fulfilled

1 – The workers with public employment relationship formed for an indefinite period of time fulfil their functions integrated in careers.

2 – The workers with fixed or unfixed term temporary public employment relationship fulfil their functions by reference to a category integrated in a career.

3 – The workers with public employment relationship in the form of tenure fulfil their functions under the terms legally defined for the position.

Article 80

Functional content

1 – A functional content legally described corresponds to each career, or to each category in which a career is unfolded.

2 – The functional content of each career or category shall be described in a comprehensive manner, by dispensing details relating to tasks therein covered.

Article 81

Fulfilment of related functions

1 – The description of the functional content under the terms of the preceding article shall not harm the allocation to the worker of related functions or functionally linked, for which the worker holds the appropriate professional qualification and that shall not entail professional downgrading.

2 – Whenever the related functions or functionally linked to the main activity, referred to in the preceding paragraph, require special qualifications, the fulfilment of such functions gives the worker the right to vocational training not lower than 10 annual hours.

Article 82

Allocation of functions and career development

1 – The public employer shall seek to place the worker in the most appropriate work post taking into consideration his/her skills and professional qualification, within the career and category to which belongs or that serves as reference to the fulfilment of functions.

2 – The working performing conditions shall favour the reconciling family and working life of the

worker, as well as ensuring the compliance with rules applicable to matters pertaining to safety and health at work.

3 – The commencement of functions of the worker takes place with a classroom or on-the- job training period, with term and content depending on the previous juridical and functional situation of the worker, save if it deals with a worker integrated in a special career whose entry has required approval in a specific training course.

4 – All workers are entitled to full development of the respective professional career that may be made by change of pay step or by promotion.

Article 83

Workplace

1 – The worker shall, in principle, carry out his/her performance at the workplace corresponding to the work post attributed, without prejudice to mobility situations provided for in the present law.

2 – The worker is attached to travels inherent to his/her functions or indispensable to his/her vocational training.

SECTION II

Careers

Article 84

General and special careers

1 – The careers of workers in public functions are general or special.

2 – The general careers are those whose functional contents characterize work posts that the generality of bodies or services needs for the development of the respective activities.

3 – The special careers are those whose functional contents characterize work posts that only one or some bodies or services need for the development of the respective activities.

4 – Only may be created special careers when, cumulatively:

a) The respective functional contents shall not be absorbed by functional contents of general careers;
b) The respective workers are subject to more demanding functional duties than those provided for those of general careers;
c) The respective workers should have approval in a specific training course of term not lower than six months or hold a certain academic degree or professional certificate to integrate the career.

5 – The requirements provided for in subparagraph c) of the preceding paragraph may be met during the experimental period.

Article 85

Single-category and multi-category careers

1 – The general or special careers are single-category or multi-category, according corresponding to them one or more categories.

2 – Only may be created multi-category careers when to each one of the categories of the career corresponds a functional content distinct from the others.

3 – The functional content of higher categories integrates that of the lower ones.

Article 86

Grades of functional complexity

1 – According to the academic qualification level required, as a rule, in each career, these ones are classified in the following grades of functional complexity:

a) Grade 1, when compulsory schooling is required, even though aggregated with appropriate vocational training;
b) Grade 2, when 12 years schooling or equivalent course is required;
c) Grade 3, when a university degree or higher academic qualification degree is required.

2 – The legal text that creates the career makes reference to the respective grade of functional complexity.

3 – The multi-category careers may have more than one grade of functional complexity, each one of them referred to categories, when the integration therein depends, as a rule, on holding different qualification levels.

Article 87

Pay steps

1 – A variable number of pay steps corresponds to each category of careers.

2 – A minimum number of eight pay steps correspond to the category of the uni-category career.

3 – In multi-category careers, the number of pay steps of each category abides by the following rules:

a) A minimum number of eight pay steps correspond to the lower category;
b) A number proportionally decreasing of pay steps corresponds to each one of the categories successively higher, in such a way that:
    i. In the case of a career split in two categories, is of four the minimum number of pay steps of higher category;
    ii. In the case of a career split in three categories, is of five and of two, the minimum number of pay steps of categories successively higher;
    iii. In the case of a career split in four categories, is of six, four and two the minimum number of pay steps of categories successively higher.

Article 88

Listing and characterization of general careers

1 – The general careers are as follows:

a) Professional;
b) Administrative Staff;
c) Auxiliary staff.

2 – The characterization of general careers, according to the number and designation of categories in which they are split, functional contents, grades of functional complexity and the number of pay steps of each category, is set out in the annex to the present law, of which is an integral part.

3 – The estimate, in the workforce lists, of work posts that shall be filled by coordinators technicians of the Administrative Staff career depends on the existence of flexible organic units with the level of section or of the need to coordinate, at least, 10 Administrative Staffs of the respective sector of activity.

4 – The estimate, in the workforce lists, of work posts that shall be filled by operational general chief of the Auxiliary Staff career depends on the need to coordinate, at least, three operational chiefs of the respective sector of activity.

5 – The estimate, in the workforce lists of work posts that shall be filled by operational chiefs of the Auxiliary Staff career depends on the need to coordinate, at least, 10 operational assistants of the respective activity sector.

SECTION III

Performance appraisal

Article 89

Performance appraisal

The workers are subject to the performance appraisal system set out in a specific legal text referred to in the subparagraph a) of article 5.

Article 90

Principles of performance appraisal

The performance appraisal system of workers is governed by the following principles:

a) Outcome orientation, by promoting the excellence and quality;
b) Universality, assuming as a cross-sectional system to all services, organizations and Public Administration workers;
c) Accountability and development, assuming itself as guidance tool, appraisal and development of workers for achieving results and demonstration of professional competencies;
d) Recognition and motivation, ensuring the differentiation of performances and promoting a management based on the enhancement of competencies and merit;
e) Transparency and impartiality, relying on objective criteria, clear and widely

disseminated rules.

Article 91

Performance appraisal effects

In addition to the effects provided for in the legal text that regulates it, the performance appraisal of workers has the effects provided for in the present law in matters pertaining to the change of pay step in the career, grant of performance bonuses and disciplinary effects.

CHAPTER III

Mobility

Article 92

Mobility situations

1 – When there is convenience for the public interest, namely when the economy, effectiveness and efficiency of bodies or services so impose it, the workers may be subject to mobility.

2 – The mobility is duly justified and may cover:

a) Mobility inside the same form of public employment relationship for an indefinite period of time or between both forms;
b) Mobility inside the same body or service or between two bodies or services;
c) Mobility related to workers actually fulfilling functions or relating to workers under a requalification situation;
d) Mobility, on a full or part-time basis.

3 – The provisions set out in the present law shall not affect the existence of other mobility systems, namely within the framework of special careers.

Article 93

Forms of mobility

1 – The mobility assumes the forms of mobility in the category and inter-career or category mobility.

2 – The mobility in the category is undertaken for the fulfilment of functions inherent to the category of which the worker is holder, in the same activity or in different activity for which holds appropriate qualification.

3 – The inter-career or category mobility is carried out for the fulfilment of functions not inherent to the category of which the worker is holder and inherent to:

a) The category higher or lower than the same career; or
b) The career of grade of functional complexity equal, higher or lower than the career in which is integrated or to the category of which is holder.

4 – The inter-career or category mobility depends upon the degree of appropriate qualification of the worker and may not change substantially his/her status.

Article 94

Form of undertaking the mobility

1 – The mobility, in whatever form, may be carried out:

a) By agreement between the bodies or services of origin and of destination, by way of acceptance of the worker;
b) By agreement between the bodies or services of origin and of destination, with exemption from acceptance of the worker;
c) By decision of the body or service of destination, with exemption from agreement of the body or service of origin, by way of order of the member of the Government, in mobility situations between services of the ministry who supervises it, and with acceptance or exemption from acceptance of the worker, pursuant to the following article;
d) By decision of the body or service, in the case of mobility between organic units, and with acceptance or exemption from acceptance of the worker, as per the following article.

2 – When the mobility is carried out for a lower category of the same career or for career of grade of lower functional complexity in relation to that where he/she is integrated or to the category of which is holder, the agreement of the worker never may be exempted.

3 – When the mobility is carried out for a body or service, namely temporary, that may not form public employment relationships for an indefinite period of time and it is expected that may have term higher than one year, the worker's agreement who is not placed under requalification situation never may be exempted.

Article 95

Exemption from worker's agreement for mobility

1 – The worker's agreement is exempted for the mobility when the workplace is situated up to 60 km, inclusive, of the place of residence and provided that one of the following situations is verified:

a) The new work post is situated in the worker's district of residence or in a neighbouring district;
b) The new work post is situated in a district integrated in the Lisbon metropolitan area or in the Oporto metropolitan area or in a neighbouring district, when the worker's residence is situated in one of those areas.

2 – The workers covered by the preceding paragraph may, within the time limit of 10 days, calculated as from the communication on the decision of mobility, request exemption from the same, with basis on serious damage for his/her personal life, namely through the proof of the inexistence of a collective public transport service network between the residence and the workplace, or excessive duration of the travel.

3 – The limit established in the paragraph 1 is reduced to 30 km when the worker belongs to the category of 1 or 2 degree of complexity.

4 – The member of the Government in charge of finance and public administration defines, by order, the terms and conditions in which may be compensated the additional charges with travels in which the worker incurs for the use of collective public transport in the situations provided for in the present article.

Article 96

Exemption from agreement of the body or service of origin for mobility

1 –Within the framework of the direct and indirect state administration, the agreement of the body or service of origin of the worker is exempted, for the purposes of mobility, when:

a) The mobility is carried out for the service or organic unit situated outside the Lisbon and Oporto metropolitan areas;
b) Six months have elapsed as to the refusal of agreement of the body or service of origin, in a mobility situation related to the same worker, even though for other service of destination.

2 – Once the mobility has been carried out under the terms provided for in subparagraph b) of the preceding paragraph, the worker shall not benefit again from the exemption of agreement of the body or service of origin in the three subsequent years.

Article 97

Term

1 – The mobility has a maximum term of 18 months, except in the following cases:

a) When there is agreement of temporary transfer due to public interest for bodies and services of the Assembly of the Republic (Parliament), as well as for supporting services to parliamentary groups;
b) When a body or service, namely temporary, that may not form public employment relationships for an indefinite period of time.

2 – The time limit provided for in the preceding paragraph may be extended for a maximum period of six months when an open competition procedure is running, that targets the recruitment of a worker for the work post filled under the mobility regime.

3 – During the time limit of one year, a mobility situation for the same body, service or organic unit of the worker who has been under mobility and has returned to the juridical-functional situation of origin, may not occur.

Article 97 – A

Publicising mobility

The mobility shall be publicised by the body or service of destination, through the following means:

a) In the Public Employment Pool (www.bep.gov.pt), by filling in the form provided for this purpose;
b) On the electronic page of the body or service of destination, by identifying the situation and modality of the intended mobility and linking to the corresponding publication on the Public Employment Pool.

Article 98

Exceptional situations of mobility

1 – Exceptionally, the worker may be subject to mobility, with exemption from his/her

agreement, for a work post situated more than 60 km of distance of his/her residence, provided that the following conditions are cumulatively met:

a) The mobility occurs between deconcentrated organic units of a same body or service;
b) The worker fulfils functions corresponding to the category of which is holder and fills a work post identical in the organic unit of destination;
c) The mobility has maximum term of one year;
d) Per diem allowances are granted during the mobility period.

2 – The mobility depends on the prior calculation of available workers in the unit or units of origin and the needs in the unit or organic units of destination, by career, category and activity area, which are made available on the respective body or service intranet.

3 – The workers of the unit or units of origin holders of the requirements demanded may manifest their interest in adhering to mobility offers made available under the terms of the present article, within the time limit and conditions stipulated for this purpose by the top manager of the body or service.

4 – When there are not, under the conditions provided for in the preceding paragraph, workers interested in sufficient number to meet the needs in the unit or organic units of destination, objective selection criteria are applied, in each body or service; such criteria are defined by the respective top manager and are subject to approval by the member of the Government who fulfils management, oversight or supervision powers over the body or service, being publicized under the terms provided for in paragraph 2.

5 – The worker selected pursuant to the preceding paragraph may request exemption from mobility, by invoking and demonstrate serious damage for his/her personal life, within the time limit of 10 days, calculated as from the communication of the mobility decision.

6 – The worker shall not be again subject to mobility regulated in the present article before two years have been elapsed, except with his/her agreement, maintaining in this case the right to per diem allowance.

Article 99

Consolidation of the mobility in the category

1 – The mobility in the category and in the same activity, within the same body or service, is definitively consolidated by decision of the respective top manager, with or without the worker's agreement, according to the formation of the mobility situation has or not needed of the worker's acceptance.

2 – The mobility in the category and in different activity, within the same body or service, is definitively consolidated by agreement between the top manager of the service and the worker.

3 – The mobility in the category that is carried out between two bodies or services may be definitively consolidated, by decision of the top manager of the body or service of destination, provided that cumulatively the following conditions are met:

a) With the agreement of the body or service of origin of the worker, when requested for the formation of the mobility situation;
b) When the mobility has had, at least, the term of six months or the term of the experimental period demanded for the category, where the latter is longer;
c) With the worker's agreement, when this one has been requested for the formation of the mobility situation or when this one involves change of activity of origin;

d) When a work post is filled previously provided for in the workforce list.

4 – The mobility consolidation foreseen in the present article is not preceded or followed by any experimental period.

5 – In the case of mobility consolidation in the category the pay step held in the juridical-functional situation of origin is maintained.

6 – (Repealed)

7 – In exceptional mobility situations, the consolidation may only be made by way of agreement between the public employer and the worker.

8 – Once the situation provided for in the preceding paragraph has been verified, the right to grant per diem allowance terminates.

9 – The provisions set out in the present article are applicable, with due adaptations, to situations of temporary transfer due to public interest, whenever a worker holder of a public employment relationship for an indefinite period of time previously established is in question provided that the consolidation is carried out in the same career and category and that the recipient's entity corresponds to a public employer.

10 – Besides the requirements set out in paragraph 3, the consolidation of the temporary transfer due to public interest, needs an agreement order from the member of the Government competent in the respective area, as well as of favourable previous opinion from the members of the Government in charge of finance and public administration.

11 – (Repealed)

Article 99 – A

Inter-career or inter-category mobility consolidation

1 - Inter-career or inter-category mobility inside the same body or service or between two bodies or services can be definitively consolidated by previous opinion from the member of the Government in charge of public administration area, provided that cumulatively the following conditions are met:

a) There is agreement of the body or service of origin, when requested for the formation of the mobility situation;
b) There is the worker's agreement;
c) There is a work post provided for in the staff list;
d) When the mobility has had the duration of the established trial period for the career of destination.

2 - All special requirements, namely specific training, knowledge or experience, legally required for recruitment must also be observed.

3 – When the inter-careers or inter-categories mobility within the same body or service is in question, consolidation depends on the proposal from the respective top manager and a favourable opinion from the member of the Government competent in the respective area.

4 - The mobility consolidation between two bodies or services depends on a proposal from the top manager of the body or service of destination and a favourable opinion from the member of the Government competent in the respective area.

5 - The provisions of this article shall apply, with the necessary adaptations, to local authorities'

workers in a situation of mobility, which can be definitively consolidated upon the proposal of the service's top manager and decision of the person responsible for the executive body.

Article 100

Performance appraisal and length of service under a mobility situation

The classification achieved in the performance appraisal and the length of service of fulfilment of functions on a mobility system basis, are taken into consideration in the worker's seniority, by reference to his/her juridical and functional situation of origin, or to the public employment relationship for an indefinite period of time, that following the mobility situation, will be formed.

CHAPTER IV

Working time

SECTION I

General provisions

Article 101

Application of the Labour Code

The Labour Code system in matters pertaining to organization and working time, with due adaptations and without prejudice to provisions set out in the following articles, shall be applicable to workers with public employment relationship.

Article 102

Working time

1 – Working time is deemed to be any period during which the worker is fulfilling the activity or remains attached to the carrying out of the service delivery.

2 – Besides the situations provided for in the preceding paragraph and in the Labour Code, the interruptions in the work delivery during the period of compulsory attendance authorized by the public employer in exceptional cases and duly justified are deemed as working time.

Article 103

Periods of functioning and dealing with the public

1 – The daily period during which the bodies and services fulfil their activity is deemed period of functioning.

2 – Without prejudice to the system applicable to services with special period of functioning, the normal period of functioning shall not commence before 8am, nor terminate after 8pm, being compulsorily affixed in a visible form to workers.

3 –The daily work break during which the bodies or services are open to deal with the public is

deemed dealing with public period, which may be equal or lower than the period of functioning.

4 – The dealing with public shall, normally, have a minimum term of seven daily hours and cover the morning and afternoon periods, and must be compulsorily affixed the starting and ending times in a visible form to the public.

5 – In the definition and fixation of the dealing with the public period the interests of services' users shall be taken into consideration and the rights of services' workers shall be observed.

6 – The services may establish an exceptional period of dealing with the public, whenever the public interest so justifies it, namely on fair and market days locally relevant, the organizations representative of workers being heard.

7 – Outside the dealing with public periods, the services make available, to users, technological means appropriate to the communication, enabling to carry out the respective registration for subsequent answer.

8 – It is incumbent upon the top manager of services to set the periods of functioning and dealing with the public, by ensuring their compatibility with performance of work systems, in such a way as to secure the regular compliance with missions entrusted.

9 – Special functioning systems may be established by specific legal text.

Article 104

Working time registration

1 – The public employer shall maintain a registration enabling to check the number of working hours performed by the worker, per day and per week with indication of the starting and ending working hour, as well as the breaks carried out.

2 – In bodies or services with over 50 workers, the registration provided for in the preceding paragraph is carried out by automatic or mechanical systems.

3 – In exceptional cases, duly justified, the top manager of the management body of the service may exempt the registration by automatic or mechanical systems.

Article 105

Maximum limits of normal working periods

1 – The normal working period is of:

a) Seven hours per day, except in the case of flexitimes and in the case of special systems of working time.
b) 35 hours per week, without prejudice to the existence of weekly time systems lower than those provided for in a special legal text and in the case of special working time systems.

2 – The full-time work corresponds to the normal period of weekly work and constitutes the rule system of work of workers integrated in the general careers, corresponding to it the monthly basic remunerations legally provided for.

3 – The normal work period may be reduced by collective labour regulation instrument, and shall not result thereof a reduction of workers' pay or any unfavourable change in working conditions.

SECTION II

Working time schemes

SUBSCTION I

Adaptability systems and bank of hours

Article 106

Adaptability

1 – The individual and group adaptability systems, and the individual and group bank of hours' systems provided for in the Labour Code, are applicable to workers with employment contract in public functions with due adaptations.

2 – The individual adaptability systems and the individual bank of hours provided for in the Labour Code are applicable to workers appointed, with due adaptations.

Article 107

Application to appointed workers

1 – The application of the individual adaptability systems and the individual bank of hours to appointed workers are made on a proposal from the employer and with the acceptance of the worker, without prejudice to provisions set out in the following paragraph.

2 – The application of the systems predicted in the preceding paragraph to all appointed workers of the body or service follows the terms foreseen in the Labour Code.

SECTION III

Working hours

SUBSECTION I

General provisions

Article 108

Definition of the working hours and periods of functioning and dealing with the public

1 – Working time is deemed to be the determination of the starting and ending hours of the normal daily work period or the respective limits, as well as the rest breaks.

2 – The public employer shall respect the periods of functioning and dealing with the public in the organization of working times of workers at his/her service.

Article 109

Rest break

1 – The rest break shall not have term lower than one hour nor higher than two, in such a way that the worker shall not perform more than five consecutive working hours, except when it deals with a continuous work day system provided for in a special norm.

2 – It may be set for disabled workers, by the respective top manager and at the concerned worker's request, more than one rest break and with term different from that which is provided for in the general system, but without exceeding in total the legal limits.

3 – A change in the rest breaks is not allowed whenever it shall entail the performance of more than six consecutive working hours, except when the surveillance and transport activities and safety electronic systems activity that shall not be interrupted for technical reasons and, as well as, with regard to workers filling administration and management positions and other persons with autonomous decision power who are exempted from work schedule.

SUBSECTION II

Schedule modalities

Article 110

Adoption of timetable arrangements

1 – According to the nature of their activities, the bodies or services may adopt one or simultaneously, more than one of the following timetable arrangements:

a) Flexible working hours;
b) Fixed working time;
c) Staggered working hours;
d) Continuous work day;
e) Half work day;
f) Shift work.

2 – Besides the work schedules referred to in the preceding paragraph, specific work schedules may be set in line with that which is provided for in the present law.

3 – Special prevention systems may be created associated to the forms of work schedule provided for in paragraph 1, to be defined in specific legal texts.

Article 111

Flexible working hours

1 – Flexible working hours is that one which permits the worker of a service to manage its working times, by choosing the entry and exit hours.

2 – The adoption of any flexible working hours is subject to the following rules:

a) The flexibility shall not affect the regular and effective functioning of bodies or services, particularly with regard to dealings with the public;
b) The prediction of fixed core working hours in the morning and in the afternoon, which shall not have, as a whole, term lower than four hours;

c) Per day more than 10 working hours shall not be performed;
d) The compliance with the term of work shall be measured weekly, fortnightly or monthly.

3 – The debit hours, determined at the end of each measurement period, gives rise to an absence that shall be justified as per the legislation applicable, for each period equal or lower than the daily average term of work.

4 – Regarding workers with disability, the excess or debit hours measured at the end of each one of the measurement periods may be transferred to the immediately following period and therein made up for, provided that it shall not exceed the limit of five and 10 hours, respectively, for the fortnight and for the month.

5 – For the purposes of provisions set out in paragraph 3, the average term of work is of seven hours and, in the services functioning on Saturday morning, that which results from the respective regulation.

6 – The absences referred to in paragraph 3 are reported to the last day or to the measurement period days to which the debit relates.

Article 112

Fixed working time

1 – Fixed working time is that which requires the compliance with the work weekly term, is divided into two daily periods, with identical fixed entry and exit hours, separated by a rest break.

2 - Without prejudice to the determination to the contrary from the top manager of the service, the fixed working time is as follows:

a) Services of common functioning system that close on Saturday:
Morning period - from 9:00 a.m. to 12:30 p.m.;
Afternoon period - from 2:00 p.m. to 5:30 p.m.
b) Services of special functioning system that operate on Saturday morning:
Morning period - from 9:30 a.m. to 12:30 p.m., from Monday to Friday, and until noon, on Saturdays;
Afternoon period – from 2:00 p.m. to 5:30 p.m., from Monday to Friday.

3 - The adoption of the fixed working time shall not affect the possibility of setting for workers with disability, by the respective top manager and at the request of the concerned worker of more than one rest break and with term different from that which is provided for in the general system, but without exceeding in total the limits therein established.

Article 113

Staggered working hours

Staggered working hours is that which, although maintaining unchanged the Normal daily work period, enables to establish, according to the service or to determined workforce group, and without possibility of option, fixed hours different from entry and exit.

Article 114

Continuous work day

1 – The continuous work day consists of the uninterrupted performance of work, save a rest period never higher than thirty minutes that for all purposes is deemed to be working time.

2 – The continuous work day shall include, predominantly, one of the day periods and determine a reduction of the Normal daily work period never higher than one hour.

3 – The continuous work day may be adopted in cases of specific work schedules provided for in the present law and in exceptional cases, duly justified, namely in the following cases:

a) Worker progenitor with children up to the age of 12 years or, irrespective of the age, with disability or chronic disease;
b) Worker adopter, in the same conditions of workers' progenitors;
c) Worker who, replacing the progenitors has on his/her charge grandson aged lower than 12 years;
d) Worker adopter, guardian or person to whom the judicial or administrative trust of a minor has been granted, as well as the spouse or the person cohabiting with any of those ones or with the progenitor, provided that he/she lives in the same household with the minor;
e) Working student;
f) In the interest of the worker, whenever other relevant circumstances, duly grounded so justify it;
g) In the interest of the service, when duly reasoned.

4 –The maximum working time followed, in a continuous work day, shall not have term higher than five hours.

Article 114-A

The half work day

1 - The half work day consists of the performance of work, in a reduced period in half of the normal work period, on a full-time basis, to which refers the article 105 without prejudice to the full calculation of the length of service for seniority purpose.

2 - The performance of work under the form of half work day shall not have a term lower than one year, and shall be requested in writing by the worker.

3 - The option for the form of half work day shall entail the setting of the pay of the remuneration corresponding to 60% of the total amount received on a full-time performance of work system

4 - The workers meeting one of the following requirements may benefit from this system:

a) Have 55 year of age or more on the date in which the half work day system has been requested and have grandchildren aged lower than 12 years;
b) Have children less than 12 years of age or, irrespective of the age, with disability or chronic disease.

5 - The authorization for adopting the working time, on a half work day system basis, shall be incumbent upon the hierarchical superior of the worker in public functions.

6 - In the case of refusal of the request for authorization referred to in the preceding paragraph the hierarchical superior shall justify clearly the refusal of the grant of working time, on a half

work day system basis.

Article 115

Shift work

1 – Shift work is deemed to be any work organization in team where the workers fill successively the same work posts, according to a certain pattern, including the rotating, continuous or discontinuous pattern, and the work may be performed at different hours in a given period of days or weeks.

2 – Different staff shifts shall be organized whenever the period of functioning of the body or service exceeds the maximum limits of the normal work period.

3 – The term of the work of each shift shall not exceed the maximum limits of the normal work periods.

4 – The performance of shift work shall abide by the following rules:

a) The shifts are rotating, and the respective staff is subject to their regular variation;
b) In the services of permanent functioning shall not be performed more than six consecutive work days;
c) The interruptions to be observed by each shift shall comply with the principle that shall not be performed more than five consecutive work hours;
d) The interruptions destined to rest or meals, when not higher than 30 minutes, are deemed included in the work period;
e) The weekly rest day shall coincide with the Sunday, at least once in each period of four weeks;
f) The change of shift may only occur after the rest day.

Article 116

Shift schemes

1– The shift system is:

a) Permanent, when the work is performed every day of the week;
b) Prolonged weekly, when it is performed in all five working days and on Saturday or Sunday;
c) Weekly, when it is performed only from Monday to Friday.

2 – The shift scheme is total when it is performed in, at least, three daily work periods and partial when performed in only two periods.

SUBSECTION III

Exemption from working hours

Article 117

Conditions of exemption from working hours

1 – The workers' holders of management positions and who head multidisciplinary teams enjoy

the exemption from working hours, as per the respective statutes.

2 – Other workers may still enjoy the exemption from working hours, by way of conclusion of a written contract with the respective public employer, provided that such exemption is accepted by law or by collective labour regulation instrument.

3 – The exemption from working hours shall not exclude the observance of the general duty of regular attendance, nor the compliance with the weekly work term legally stipulated.

Article 118

Forms and effects of exemption from working hours

1 – The exemption from working hours may include the following forms:

a) Not subject to the maximum limits of the normal work periods;
b) Possibility of extension of the performance of a determined number of hours, per day or per week;
c) Observance of the normal work periods agreed.

2 – The exemption from working hours of workers referred to in paragraph 1 of the preceding article shall entail, in any circumstance, the non-subjection to the maximum limits of the normal working periods, under the terms of the public employer's statutes.

3 – In cases provided for in paragraph 2 of the preceding article, the choice of the form of exemption from working hours complies with the provisions set out in the law or in collective labour regulation instrument.

4 – In the absence of law, collective labour regulation instrument or stipulation of the parties, the exemption system from work schedule shall abide by the provisions set out in subparagraph b) of paragraph 1, and the extension of the performance of work shall not be higher than two hours per day or to 10 hours per week.

5 – The exemption shall not affect the right to compulsory weekly rest days, to compulsory public holidays and to days and half days of complementary rest, nor to daily rest of 11 consecutive days between two daily work periods, except in cases provided for in paragraph 1 of article 117 and in paragraph 2 of article 123.

6 – In cases provided for in paragraph 1 of article 117 and in paragraph 2 of article 123, a rest period shall be observed that enables the worker's recovery between two daily consecutive work periods.

Article 119

Not subject to working hours

1 – It is deemed not subject to working hours the performance of work not subject to the compliance with any forms of planned schedule arrangements provided for in the present law, nor to the observance to the general duty of regular attendance and compliance with weekly work term

2 – The adoption of any system of performance of work not subject to schedule complies with the following rules:

a) Express agreement of the worker with regard to tasks and time limits of their carrying

out;

b) Be intended for the carrying out of tasks set out in the service activity plan, provided that they are scheduled, and whose execution is assigned to a worker not subject to work schedule;
c) Setting of a certain time limit for the carrying out of tasks, that shall not exceed the maximum limit of 10 working days;
d) Non-authorization to the same worker more than once by quarter.

3 – The non-compliance with the task within the time limit agreed, without justified reasons, prevents the worker from adopting this system for one year, calculated as from the date of the inobservance.

4 – The non-subjection to working hours shall not exempt the regular contact of the worker with the service, nor to his/her attendance at the workplace, whenever appropriate.

SECTION IV

Supplementary work

Article 120

Limits on the duration of supplementary work

1 – The Labour Code system in matters pertaining to the supplementary work is applicable to workers with public employment relationship, with due adaptations, and without prejudice to provisions set out in the present article and the following ones.

2 – The supplementary work is subject to the following limits:

a) 150 hours of work per year;
b) Two hours per normal work day;
c) A number of hours equal to the daily normal work period, on weekly rest days, compulsory or complementary, and on public holidays;
d) A number of hours equal to half daily normal work period on half complementary rest day.

3 – The limits set in the preceding paragraph may be exceeded, provided that they shall not entail a pay per complementary work higher than 60 % of the worker's basic remuneration:

a) When it deals with workers who fill work posts of drivers or telephone operators and of other workers integrated in Auxiliary Staff and Administrative Staff careers, whose maintenance at the service beyond the work schedule is justifiably recognized as indispensable;
b) In exceptional and delimited circumstances in the time, by way of authorization from the member of the Government concerned or, when this is not possible, through confirmation of the same entity, to be delivered within 15 days subsequent to the occurrence.

4 – The maximum limit referred to in subparagraph a) of paragraph 2 may be increased by 200 hours per year, by collective labour regulation instrument.

Article 121

Registration

1 – The public employer shall have and maintain for five years the nominal relation of workers who performed supplementary work, with express reference to the number of hours performed and indication of the day on which they enjoyed the respective compensatory rest, for the purposes of control by the IGF (Inspectorate General for Finance) or for other legally competent inspection service.

2 – The registration of the supplementary work shall contain the data to be made in accordance with the model approved by order from the member of the Government responsible for Public Administration area.

CHAPTER V

Non-work times

SECTION I

Provision

Article 122

General provisions

1 – The Labour Code system in matters pertaining to non-work times is applicable to workers with public employment relationship, with due adaptations, and without prejudice to specificities set out in the present chapter.

2 – Without prejudice to provisions set out in the following paragraphs or in special law, the system of public holidays established in the Labour Code is applicable to workers fulfilling public functions.

3 – The municipal public holiday of localities shall be observed.

4 – The observance of the Carnival Tuesday as a public holiday shall depend upon the decision taken by the Council of Ministers or of self-government bodies of the autonomous regions, being null the provisions of the contract or of collective labour regulation instrument which expressly provided to the contrary.

Article 123

Daily rest

1 – A minimum period of 11 hours' rest followed between two daily consecutive work periods shall be guaranteed to the worker.

2 – The provisions set out in the preceding paragraph shall not be applicable when it is necessary the performance of supplementary work by reason of force majeure or for being indispensable to prevent or remedy serious damages for the body or service due to accident or to risk of eminent accident.

3 – The rule set out in paragraph 1 shall not be applicable in cases in which the fulfilment of

functions is characterized for their permanent and compulsory nature within the scope of the respective professional statute, or when the normal work periods are fractionated throughout the day, on the basis of characteristics of the activity, namely in cleaning services.

4 – The provisions set out in paragraph 1 are not applicable to activities characterized for the need to ensure continuity of the service, namely the following indicated activities, provided that through collective labour regulation instrument, the corresponding compensatory rests are ensured to the worker:

a) Surveillance, transport and security electronic systems processing;
b) Reception, treatment and care provided by healthcare establishments and services, residential institutions, prisons and educational centres;
c) Water supply and distribution;
d) Ambulances, firemen and civil protection;
e) Refuse collection and incineration;
f) Activities in which the work process shall not be interrupted for technical reasons;
g) Research and development.

5 – The provisions set out in the preceding paragraph are extensible to cases of predictable increase of tourist activity.

Article 124

Working week and weekly rest

1 – The working week is, as a rule, of five days.

2 – The workers are entitled to one compulsory weekly rest day, added to one complementary weekly rest day that must coincide with Sunday and Saturday, respectively.

3 – The rest days referred to in the preceding paragraph only may not coincide with Sunday and Saturday, respectively, when the worker fulfils functions in a body or service that closes its activity on other week days.

4 – The weekly rest days may still not coincide with Sunday and Saturday in cases:

a) When the worker is necessary to ensure the continuity of services that may not be interrupted or that must be performed on a rest day of other workers;
b) When the cleaning services staff or the person in charge of other preparatory and complementary works that shall be necessarily carried out on the rest day of the other workers;
c) When a worker is directly assigned to surveillance, transport and security electronic systems processing activities;
d) When the worker fulfils activity in exhibitions, fairs and street markets;
e) When the inspection services staff of activities that do not close on Saturday or Sunday;
f) In other cases, provided for in special legislation.

5 – When the nature of the body or service or reasons of public interest so require it, the complementary rest day may be enjoyed, according to the worker's option, as follows:

a) Divided into two periods preceding or subsequent to the compulsory weekly rest day;
b) Half day immediately preceding or subsequent to the compulsory weekly rest day, being the remaining time deducted in the normal work period term of other working days, without prejudice to the weekly normal work period term.

6 – Whenever it is possible, the public employer shall provide the workers who belong to the same family household the weekly rest on the same days.

Article 125

Mandatory weekly rest duration

1 – When the complementary rest day is not next to the mandatory weekly rest day, an 11-hour period is added to this one, corresponding to the minimum period of daily rest established in paragraph 1 of article 123.

2 – The provisions set out in the preceding paragraph are not applicable to workers' holders of management positions and heads of multidisciplinary teams.

3 – The provisions set out in paragraph 1 are also not applicable:

a) When it is necessary the performance of supplementary works for reason of force majeure or for being indispensable to prevent or remedy serious damages for the body or service due to accident or to risk of eminent accident;
b) When the normal working periods are fractionated throughout the day, on the basis of characteristics of the activity, namely cleaning services;
c) To activities characterized for the need to ensure the continuity of the service, namely the activities indicated in the following paragraph, provided that through collective labour regulation instrument or individual agreement the corresponding mandatory rests are ensured.

4 – For the purposes of provisions set out in subparagraph c) of the preceding paragraph, the following activities are deemed:

a) Surveillance, transport and security electronic systems processing;
b) Reception, treatment and care provided by healthcare establishments and services, residential institutions, prisons and educational centres;
c) Ambulances, firemen and civil protection;
d) Refuse collection and incineration;
e) Activities in which the work process shall not be interrupted for technical reasons;
f) Research and development.

5 - The provisions set out in the subparagraph c) of paragraph 3 are extensible to cases of predictable increase of tourist activity.

SECTION II

Holidays

Article 126

Right to holidays

1 – The worker is entitled to a paid holiday period in each calendar year, under the terms provided for in the Labour Code and with specificities of the following articles.

2 –The annual holiday period has a 22 working day term.

3 – The holiday period referred to in the preceding paragraph shall be accrued on the 1 January,

without prejudice to provisions set out in the Labour Code.

4 – One working day of holiday for each 10 years of service actually performed is added to the holiday period provided for in paragraph 1.

5 – The holiday period duration may still be increased within the framework of the performance rewarding systems, under the terms provided for in the law or in collective labour regulation instrument.

6 – For the purposes of holidays, the week days from Monday to Friday are deemed working days, with exception of public holidays, and the holidays shall not start on a weekly rest day of the worker.

Article 127

Employment bonds lasting than six months

1 – The worker whose total duration of employment bond shall not attain six months is entitled to enjoy two working days of holidays for each full month of term of the contract.

2 – For the purposes of determination of the full month, all followed or interpolated days on which the work has been performed shall be taken into account.

3 – In employment bonds whose total duration shall not attain six months, the enjoyment of holidays has place at the moment immediately preceding to that of the termination, save otherwise agreed by the parties concerned.

Article 128

Illness in the holiday period

1 – In the case of the worker falls ill during the holiday period, the same is suspended provided that the public employer shall be informed thereof, continuing, shortly after the discharge, the enjoyment of the holidays still included in that period.

2 – It is incumbent upon the public employer, in the absence of agreement, the scheduling of the holidays not enjoyed, that may elapse in any period.

3 – The illness proof provided for in paragraph 1 shall be made by hospital establishment, by declaration issued by the health centre or by medical certificate.

4 – For the purposes of verification of the illness situation, the public employer may request the designation of a social security services physician of the worker's usual residence area, and shall inform thereof on the same date. For that purpose, the public employer may also, designate a physician who has not any former contractual employment relationship in relation to the public employer.

5 – In the case of disagreement between the medical opinions mentioned in the preceding paragraphs, the intervention of a medical board may be requested by any of the parties.

6 – In the case of non-compliance with the duty of information provided for in paragraph 1, as well as objection, without reasonable grounds, to inspection of the illness, the days of the alleged illness are deemed holidays.

Article 129

Effects of the suspension of the contract for prolonged impediment

1 – In the suspension year of the contract for prolonged impediment, relating to the worker, once the total or partial impossibility of the enjoyment to holidays already expired has been verified, the worker is entitled to the remuneration corresponding to the holiday period not enjoyed and respective allowance.

2 – In the year of termination of the prolonged impediment the worker is entitled to holidays under the terms provided for in article 127.

3 – In the case of surviving the term of the calendar year before the time limit referred to in the preceding paragraph has been elapsed or before the right to holidays has been enjoyed, the worker may enjoy it until 30 April of the subsequent calendar year.

4 – Once the contract has been terminated after prolonged impediment in respect of the worker, this one is entitled to the remuneration and holiday allowance corresponding to the length of service performed in the year of starting the suspension.

Article 130

Violation of the holiday entitlement

If the public employer, with guilt, prevents the enjoyment of holidays as per the terms provided for in the preceding articles, the worker receives, as remuneration, the triple of the remuneration corresponding to the absent period, which shall compulsorily be enjoyed by 30 April of the subsequent calendar year.

Article 131

Performance of other activity during holidays

1 – The worker shall not perform any other activity paid during holidays, save if he/she has already fulfilled it cumulatively, with authorization, or the public employer so authorize it.

2 – The infringement of provisions set out in the preceding paragraph, without prejudice to possible disciplinary liability of the worker, gives the public employer the right to recover the remuneration corresponding to holidays and respective allowance, of which half reverts to the *Instituto de Gestão Financeira da Segurança Social, I.P.*, (Social Security Financial Management Institute, PI) in the case of the worker being beneficiary of the social security general scheme for all eventualities, or constitutes State revenue in other cases.

3 – For the purposes provided for in the preceding paragraph, the public employer may make deductions in the worker's remuneration, until the limit of one-sixth, in relation to each one of the periods of subsequent salary.

Article 132

Contact in holiday period

Before starting holidays, the worker shall indicate, if possible, to the respective public employer, the way how he/she possibly may be contacted.

SECTION III

Absences

SUBSECTION I

Common provisions

Article 133

Concept

1 – It is deemed absence the non-attendance of the worker at the workplace in which should be performing activity during the daily normal work period.

2 – In the case of absence of the worker for periods lower than the daily normal work period the respective times are added for determination of the absence.

Article 134

Types of absences

1 – The absences may be justified or unjustified.

2 – The justified absences are deemed:

a) Those given, during 15 followed days, on the occasion of a marriage;
b) Those caused by death of the spouse, family members or relatives;
c) Those caused for the performance of tests, examinations in educational establishments;
d) Those caused for impossibility to provide work due to a fact not imputable to a worker, namely observance of medical prescription following recourse to a medically assisted procreation technique, illness, accident or compliance with legal obligation;
e) That caused by the provision of immediate and necessary assistance to a son/daughter, grandson/granddaughter or to a member of the worker's family aggregate;
f) Those caused for travel to educational establishments of the person in charge of the education of a minor for educational situation reason of this one, for the time strictly necessary, until four hours per quarter, for each minor;
g) Those given by the worker elected for the collective representation structure of workers, under the terms of the article 316;
h) Those given by applicants for elections to public positions, during the legal period of the respective electoral campaign, under the terms of the corresponding electoral law;
i) Those caused by the need for outpatient treatment, carrying out of medical appointments and complementary diagnostic examinations, that may not be carried out outside the normal work period and only for the time strictly necessary;
j) Those given for prophylactic isolation;
k) Those given for blood donation and first aid;
l) Those motivated by the need to be subject to selection methods under open competition procedure;
m) Those given to be deducted on the holiday period;
n) Those which by law are deemed as such.

3 – The provisions set out in subparagraph i) of the preceding paragraph are extensive to the assistance to the spouse or equivalent, ascendants and descendants, adopting, adopted and stepchildren, minors or disabled, when demonstrably the worker is the most appropriate person to do it.

4 – The absences referred to in paragraph 2 have the following effects:

a) Those given pursuant to subparagraphs a) to h) and n) have the effects provided for in the Labour Code;
b) Without prejudice to provisions set out in the preceding subparagraph, those given as per subparagraphs i) to l) shall not entail loss of remuneration;
c) Those given under the terms of subparagraph m) have the effects provided for in the following article.

5 – The provisions related to types of absences and to their term shall not be object of collective labour regulation instrument, save if they deal with situations provided for in the subparagraph g) of paragraph 2.

6 – The absences not provided for in paragraph 2 are deemed unjustified.

Article 135

Absences to be deducted on the holiday period

1– Without prejudice to provisions set out in special law, the worker may be absent for two days per month to be deducted on the holiday period, until the maximum of 13 days per year, which may be used in half day periods.

2 – The absences provided for in the preceding paragraph are taken into account, according to the option of the person concerned, in the period of the running or the following year.

3 – The absences deducted on the holiday period shall be reported within a minimum 24 hours in advance or, if it is not possible, on the day itself, and are subject to authorization, that may be refused, if they are liable to cause damage for the normal functioning of the body or service.

4 – In cases in which the absences shall entail loss of remuneration, the absences may be replaced, if the worker so prefers it, for holidays, in the proportion of one holiday for each absent day, provided that the actual enjoyment of 20 days of holidays or the corresponding proportion is safeguarded, if it deals with the entry year, by way of express communication of the worker to the public employer.

SUBSECTION II

Absences due to illness and justification of the illness

Article 136

Checking of the illness by a physician designated by the social security

1 – For the purposes of checking the situation of worker's illness, the public employer shall request the designation of a physician to services of the social security of the usual residence area of the public employer, informing the worker of the request on the same date.

2 – The social security services referred to in the preceding paragraph shall within the 24 hours,

calculated as from the receipt of the request:

a) Designate the physician, of between those who integrate checking commissions of temporary incapacity;
b) Communicate the designation of the physician to the public employer;
c) Convene the worker for public examination, by indicating the place, day and hour of its carrying out, that shall occur within the following 72 hours;
d) Communicate to the worker that his/her non-attendance to medical examination, without reasoned reason, shall entail that the days of the alleged illness are deemed holidays, as well as shall submit, when his/her checking, clinical information and available supplementary diagnostic data, proving his/her incapacity.

3 – If the social security services may not comply with provisions set out in the preceding paragraph, shall within the same time limit, report this impossibility to the public employer.

Article 137

Checking of the illness situation by a physician designated by the public employer

1 – The public employer may designate a physician to carry out the checking of the illness situation of the worker, in the following cases:

a) If the examination within the time limit provided for in subparagraph c) of paragraph 2 of the preceding article for reason non-imputable to the worker has not been carried out or, where appropriate, within the time limit provided for in paragraph 2 of article 140;

b) Having received the communication provided for in paragraph 3 of the preceding article or, in the absence of this one, if has not obtained indication from the physician by social security services within 24 hours after submission of his/her request.

2 – On the date in which designates the physician, under the terms of the preceding paragraph, the public employer shall comply with provisions set out in subparagraphs c) and d) of paragraph 2 of the preceding article.

Article 138

Reassessment of the illness situation

1 – For the purposes of provisions set out in paragraph 5 of article 128, the reassessment of the illness situation of the worker is made by intervention of the reassessment commission of social security services of his/her usual residence area.

2 – Without prejudice to provisions set out in the following paragraph, the reassessment commission is composed of three physicians, one designated by social security services, who shall preside over and has a casting vote, who shall be, when the checking of the illness situation has been made, pursuant to paragraph 2 of article 136, the physician who has undertaken it, one indicated by the worker and other by the public employer.

3 – The reassessment commission is composed of only two physicians in the case of:

a) The worker or the public employer has not made the respective designation;
b) The worker and the public employer has not made the respective designation; the social security services shall be responsible for the designation of other physician.

Article 139

Procedure of the illness reassessment

1 – Any of the parties may request the reassessment of the illness situation within 24 hours subsequent to being aware of the checking result of the same, and shall, on the same date, communicate this request to the counterpart.

2 – The applicant shall indicate the physician referred to in paragraph 2 of the preceding article or declare that shall not make use of this possibility.

3 – The counterpart may indicate the physician within the 24 hours following to being aware of this request.

4 – The social security services shall within the time limit of 24 hours, calculated as from the receipt of the request, comply with provisions set out in subparagraphs c) and d) of paragraph 2 of article 136.

5 – Within the time limit of eight days, calculated as from the submission of the request, the commission shall reassess the illness situation of the worker and communicate the result of same to this one along with the public employer.

Article 140

Impossibility of attendance at a medical examination

1 – The worker convened for medical examination outside his/her residence who justifiably, not be able to travel shall, in any case, inform on this impossibility the entity that has convened him/her, until the date provided for the examination or, if it has not been possible, within the 24 following hours.

2 – According to the nature of the impediment of the worker, a new date shall be set for the examination and, if necessary, it shall be carried out at the worker's residence within the 48 following hours.

Article 141

Communication on the checking result

1 –The physician who checks the illness situation may report to the public employer if the worker is or not fit to perform the activity.

2 – The physician who checks the illness situation shall make the communication provided for in the preceding paragraph within the 24 subsequent hours.

Article 142

Effectiveness of the checking result of the illness situation

The public employer shall not justify any unfavourable decision for the worker in the checking result of the illness situation of the same, carried out under the terms of article 136, while the time limit elapse to request the intervention of the reassessment commission, nor until the final decision, if this one is requested.

Article 143

Communications and fees

1 – The communications provided for in the present subsection shall be made in writing and speedily, namely telegram, electronic mail or by any other written means, provided that it may be possible adduce evidence of their sending.

2 – By the appointment request for physician by social security services or the intervention by the reassessment commission the pay of fees shall be due, under the terms to be set by order of the members of the Government responsible for finance and labour area.

CHAPTER VI

Remuneration

SECTION I

General provisions

Article 144

General principles

1 – The legal norms in matters pertaining to remunerations shall not be excluded or derogated by collective labour regulation instrument, save when expressly provided for in the present law.

2 – The setting of the remuneration amount shall be made, taking into account the quantity, nature and quality of work, and the principle of equal pay for equal work shall be observed.

Article 145

Right to remuneration

1 – The remuneration shall be due with the commencement of the fulfilment of functions, without prejudice to special system of taking effects of the acceptance.

2 – The remuneration, when it is regularly, is monthly paid.

3 – The law provides for the situations and conditions in which the right to remuneration is total or partially suspended.

4 –The right to remuneration terminates with the termination of the public employment relationship.

Article 146

Components of remuneration

The workers' remuneration with public employment relationship shall be composed of:

a) Basic remuneration;
b) Remuneration supplements;
c) Performance bonuses.

SECTION II

Basic remuneration

Article 147

Single remuneration scale

1 – The single remuneration scale contains the totality of remuneration levels liable to be used in the setting of the basic remuneration of workers fulfilling public functions under public employment relationship.

2 – The number of remuneration levels and the cash amount corresponding to each one shall be set by order of the Prime Minister and the member of the Government responsible for finance area.

3 – The change of the cash amount corresponding to each remuneration level shall tend to maintain the relative proportionality between each one of the levels.

4 – It is not necessary to observe the proportionality provided for in the preceding paragraph between the first remuneration level and the subsequent level, whenever that one is set by reference to minimum guaranteed monthly pay (RMMG).

Article 148

Minimum guaranteed monthly pay

The single pay scale shall not predict remuneration levels of amount lower than that of the minimum guaranteed monthly pay.

Article 149

Setting of basic remuneration

1 – The remuneration levels corresponding to pay steps of categories, as well as the positions fulfilled under a tenure shall be set by regulatory decree.

2 – In the setting of remuneration levels corresponding to pay steps of categories shall in principle, be complied with the following rules:

a) In multi-category careers, the intervals between the remuneration levels are decreasingly smaller, insofar as the corresponding pay steps become higher;
b) The remuneration levels corresponding to pay steps of several categories of the career shall not be overlapped, a single growing movement from the level corresponding to the first pay step of the lower category up to the corresponding to the last pay step of the higher category is to be verified;
c) Exceptionally the level corresponding to the last pay step of one category may be identical to that of the first pay step of the category immediately higher;
d) In the single category careers, the intervals between remuneration levels are constant.

Article 150

Concept of basic remuneration

1 – The basic remuneration is the cash amount corresponding to the remuneration level of the pay step where the worker is placed in the category of which is holder or of the position fulfilled under tenure.

2 – The annual basic remuneration is paid in 14 monthly payments, corresponding one of them to the Christmas allowance and the other one to the Holiday allowance, under the terms of the law.

Article 151

Christmas allowance

1 – The worker is entitled to a Christmas allowance of amount equal to a monthly basic remuneration that shall be paid in November of each year.

2 – The value of the Christmas allowance is proportional to the length of service performed in the calendar year, in the following situations:

a) In the worker's entry year;
b) In the year of termination of the contract;
c) In the case of suspension of the contract, save if it is by worker's illness.

Article 152

Remuneration of the holiday period

1 – The remuneration of the holiday period corresponds to the remuneration that the worker would receive if he/she were on actual duty, with exception of the meal allowance.

2 – Besides the remuneration mentioned in the preceding paragraph, the worker is entitled to a holiday allowance of value equal to a monthly basic remuneration, that shall be paid in full in June of each year or together with the monthly remuneration to the enjoyment of holidays, when the obtaining of the respective right occurs in a subsequent moment.

3 – The suspension of the contract by worker's illness shall not affect the right to holiday allowance, under the terms of the preceding paragraph.

4 – The increase of the holiday period provided for in paragraphs 4 and 5 of article 126 or its reduction pursuant to the Labour Code, respectively, shall not entail the corresponding increase or the reduction in the remuneration or in the holiday allowance.

Article 153

Remuneration in the mobility case

1 – The worker under mobility in the category, in different body or service or whose legal-functional situation of origin is of that which is placed under requalification situation, may be paid by the pay step immediately following to that in which is placed in the category or, in the case of inexistence of this one, by the remuneration level that takes place to the corresponding to his/her pay step in the single remuneration scale.

2 – The worker under inter-career or category mobility shall never receive a remuneration lower than that one which corresponds to the category of which is holder.

3 – In the case referred to in the preceding paragraph, when the first pay step of the category corresponding to the function that the worker shall fulfil is higher than the remuneration level of the first pay step of that one which is holder, the worker's remuneration shall be increased to the higher remuneration level closest of that which corresponds to his/her pay step in the category of which is holder.

4 – If the hypothesis provided for in the preceding paragraph is not verified, the worker may be paid as per paragraph 1.

5 – Except in the case of agreement in a different direction between bodies or services, the worker under internal mobility shall be paid by the body or service of destination.

Article 154

Option for the basic remuneration

1 – When the public employment relationship is formed by tenure, or there is room for a temporary transfer due to public interest, the worker is entitled to opt, at any time, for the basic remuneration due in the legal-functional situation of origin that is formed for indefinite period of time.

2 – In the case of temporary transfer due to public interest for the fulfilment of functions in body or service to which the present law is applicable, with the option for the remuneration referred to in the preceding paragraph, the remuneration to be paid shall not exceed, in any case, the Prime Minister basic remuneration.

Article 155

Calculation of the amount of the daily hourly remuneration

1 – The value of the normal work hour is calculated through the formula (Rb x 12)/(52 x N), in which Rb is the monthly basic remuneration and N the number of hours of the normal weekly working hours.

2 – The formula referred to in the preceding paragraph serves as a basis for the calculation of the remuneration corresponding to any other fraction of the working time lower than the daily working period.

3 – The daily remuneration corresponds to 1/30 of the monthly remuneration.

SECTION III

Change of the pay step

Article 156

General rule of pay step change

1 – The workers with public employment relationship may see their pay step changed in the category to the pay step immediately following that one in which they are placed, under the

terms of the present article.

2 – The workers of the body or service, wherever they may be fulfilling functions are eligible to benefit from the pay step change, that in the absence of special law to the contrary, have obtained, in the last performance appraisals referred to the functions fulfilled during the pay step in which they are placed:

a) A maximum classification;
b) Two consecutive classifications immediately lower than the maximum; or
c) Three consecutive classifications immediately lower than those referred to in the preceding subparagraph, provided that it substantiates positive performance.

3 – The workers referred to in the preceding paragraph are ordered, within each universe, by decreasing order of the quantitative classification obtained in the last performance appraisal.

4 – Taking into consideration the ordering referred to in the preceding paragraph and until the limit of the maximum amount of charges set for each universe, as per paragraphs 2 and 3 of article 158, the pay step of the worker shall be changed, save the provisions set out in the following paragraph.

5 – There is no place to the change of pay step when, notwithstanding the requirements have been met provided for in paragraph 2, the maximum amount of charges set for the universe in question has been predictably spent, within the framework of the budget implementation underway, with the change relating to a worker ordered superiorly.

6 – For the purposes of provisions set out in subparagraphs b) and c) of paragraph 2, the classifications obtained that are higher than those therein referred are also taken into account.

7 – There is place to compulsory change to the pay step immediately following that one where the worker is placed, when there is it, irrespective of the universes defined under the terms of the article 158, when the worker, in the absence of special law to the contrary, has accumulated 10 scores in the performance appraisals related to the functions fulfilled during the pay step in which he/she is placed, calculated under the following terms:

a) Six scores for each maximum classification;
b) Four scores for each classification immediately lower than the maximum;
c) Two scores for each classification immediately lower than that one referred to in the preceding subparagraph, provided that it substantiates positive performance;
d) Two negative scores for each classification corresponding to the lowest appraisal level.

8 – For the purposes of provisions set out in the preceding paragraph, the surplus scores are relevant for the purpose of future pay step changes when workers have accumulated more scores than those legally required for the compulsory pay step change.

9 – In the absence of special law to the contrary, the change of the pay step is reported to 1 January of the year in which it takes place.

Article 157

Special rules of the pay step change

1 – The top manager of the body or service may, after hearing the Assessment Coordinating Council or the body with equivalent competence, change the pay step of the worker to the pay step immediately following that one where he/she is placed, even though the requirements

provided for in paragraph 2 of the preceding article are not met, provided that the worker has obtained the maximum classification or that one immediately lower and is included in the universes defined for the change of the pay step as per the terms and limits of the preceding article.

2 – The top manager of the body or service may, after hearing the Assessment Coordinating Council or the body with equivalent competence, determine that the change of the pay step in the category of the worker is undertaken to any other pay step following that one in which he/she is placed, provided that the worker is included in the universe of workers listed to change the pay step and pursuant to the terms and limits set in the preceding article.

3 – The provisions set out in the preceding paragraph have as a limit the maximum pay step for which the workers have changed the pay step who, within the scope of the same universe, are superiorly ordered.

4 – The changes of the pay step provided for in the present article are justified and made public, with the full content of the respective justification and the Assessment Coordinating Council's opinion or of the body with equivalent competence, by publication in the 2nd Series of the Official Gazette, by affixing in the body or service and by electronic dissemination, provisions set out in paragraph 8 of the preceding article are also applied.

Article 158

Pay step change by management option

1 – The top manager of the service, in accordance with the budget allocations provided for, establishes the appropriations intended to bear the charges resulting from the changes of the pay step in the category of workers of the body or service.

2 – The decision referred to in the preceding paragraph sets, justifiably, the maximum amount, with the disaggregation necessary, of charges that the body or service is proposed to bear, as well as the universe of careers and categories where the changes of pay steps in the category may take place.

3 – The universe mentioned in the preceding paragraph may still be disaggregated, when the top manager in office, so deems it appropriate:

a) The assignment, competence or activity that the workers integrated in a determined career or holders of a determined category shall fulfil or carry out;
b) The academic or professional training area of workers integrated in a determined career or holders of a determined category, when such training area has been used in the characterization of work posts contained in the workforce lists.

4 – For the purposes of provisions set out in the preceding paragraphs, the changes may not take place in all careers, or in all categories of a same career or still regarding all workers integrated in a determined career or holders of a determined category.

5 – The decision is made public by disclosing in the body or service and by electronic dissemination.

SECTION IV

Remuneration supplements

Article 159

Requirements to grant remuneration supplements

1 – Remuneration increases due to the fulfilment of functions in work posts that present more demanding conditions with regard to other work posts characterized by identical position or by similar career and category are deemed remuneration supplements.

2 – Remuneration supplements are referenced to the fulfilment of functions in work posts referred to in the first part of the preceding paragraph; they are only paid for those who fill them.

3 – Workers who undergo in the fulfilment of their functions more demanding working conditions in the work posts specified under the terms of paragraph 1 are entitled to remuneration supplements:

a) In an exceptional and provisional way, namely those arising from the performance of supplementary, night work, on weekly rest days, complementary and public holidays and outside their normal workplace; or
b) In a permanent way, namely those resulting from the performance of hazardous, arduous and unhealthy work, shift work, in peripheral areas, with exemption from work schedule and of secretarial work for managers.

4 – Remuneration supplements are only due while last the working conditions that determined their grant and there is actual fulfilment of functions or as such deemed by law.

5 – The remuneration supplements shall be set in cash amounts and only exceptionally may be set in percentage of the monthly basic remuneration.

6 – Remuneration supplements are created by law, and may be regulated by collective labour regulation instrument.

Article 160

Night work

1 – The night work shall be paid with an increase of 25% regarding the remuneration of work equivalent performed during the day.

2 – The remuneration increase provided for in the preceding paragraph may be set by collective labour regulation instrument, through a reduction equivalent to the maximum limits of the normal work period.

3 – The provisions set out in paragraph 1 are not applicable to the work performed during the night period, save if it is provided for by collective labour regulation instrument:

a) At the service of activities that are exclusively or predominantly fulfilled during this period namely those connected to amusement shows and public entertainments;
b) At the service of activities which, by their nature or by virtue of the law, shall necessarily operate and made available to the public during the same period;
c) When the remuneration increase for the performance of night work is integrated in

the basic remuneration.

Article 161

Shift remuneration supplement

1 – Provided that one of the shifts is total or partially coinciding with the night work period, the shift workers are entitled to a remuneration increase whose amount varies according to the number of shifts adopted, as well as the permanent nature or not of the functioning of services.

2 – The increase referred to in the preceding paragraph, in relation to the basic remuneration, varies between:

a) 25% to 22%, when the shift system is permanent, total or partial;
b) 22% to 20%, when the shift system is weekly prolonged, total or partial;
c) 20% to 15%, when the shift system is weekly total or partial.

3 – The setting of percentages, as per the preceding paragraph, takes place by internal regulation or by collective labour regulation instrument.

4 – The remuneration increase shall include which would be due for night work, but shall not exclude the remuneration for supplementary work.

Article 162

Supplementary work

1 – The performance of supplementary work on a normal work day entitles the worker to the following increases:

a) 25% of the remuneration, in the first hour or fraction of this one;
b) 37, 5% of the remuneration, in the subsequent hours or fractions.

2 – The supplementary work performed on a compulsory or complementary weekly rest day, and on a public holiday, entitles the worker to an increase of 50% of the remuneration for each hour of work performed.

3 – The hourly remuneration that serves as the basis for the calculation of the supplementary work shall be established according to the formula provided for in article 155, considering, in situations of determination of the weekly normal work period in average terms, that N means the average number of hours of the weekly normal work period actually performed in the body or service.

4 – The remuneration amounts provided for in the preceding paragraphs may be set by collective labour regulation instrument.

5 – The payment of supplementary work is required, when has been previously and expressly determined.

6 – The prior authorization provided for in the preceding paragraph is not required in situations of performance of supplementary work caused by force majeure or whenever indispensable to prevent or remedy serious damage for bodies and services, provided that the same are subsequently justified by the top manager of the service.

7 – By agreement between the public employer and the worker, the remuneration for supplementary work may be replaced for a remuneration rest.

Article 163

Remuneration limits

1 – The workers appointed shall not, in each month, receive for supplementary work more than one third of the respective basic remuneration, by which its performance shall not be required when that limit exceeds.

2 – The limits set for workers of careers of administrative staff and operational assigned to the official residences of the President of the Republic and the Prime Minister are maintained under the terms of the legislation in force.

Article 164

Exemption from working schedule

1 – The worker exempted from working schedule in the forms provided for in subparagraphs a) and b) of paragraph 1 of article 118 is entitled to a remuneration supplement, under the terms set by law or by collective labour regulation instrument.

2 – The provisions set out in the preceding paragraph may not be applicable to special careers and to positions in which the exemption from work schedule system constitutes the normal performance of work.

Article 165

Public holidays

1 – The worker is entitled to the remuneration corresponding to public holidays, without the possibility of the public employer may compensate him/her with supplementary work.

2 – The worker who performs work in a body or service legally dispensed with suspending the work on a mandatory public holiday has the right to a remuneration rest with term of half of the number of hours performed or to the increase of 50 % of the remuneration for the work performed on that day, the choice shall be up to the public employer, in the absence of agreement between the parties.

SECTION V

Performance bonuses

Article 166

Preparation for the grant

1 – The top manager of the body or service sets and justifies, within the time limit of 15 days after the beginning of the budget implementation, the universe of positions, careers and categories where the grant of performance bonuses may take place, with the disaggregation necessary of the available amount according to such universes, taking into account the budget allocations intended to bear this type of charges.

2 – Provisions set out in paragraphs 3 to 5 of article 158 are applicable to the grant of performance bonuses, with due adaptations.

Article 167

Conditions to grant performance bonuses

1 – Workers, who cumulatively fulfil functions in a body or service are eligible to the grant of performance bonuses and, in the lack of a special law to the contrary, have obtained, in the last performance appraisal, the maximum classification or that one immediately lower to it.

2 – Workers who meet each one of the universes defined are ordered, within each universe, by decreasing order of the quantitative classification obtained in that appraisal.

3 – Taking into account the ordering referred to in the preceding paragraph, and after exclusion from workers who, in that year, have changed their pay step in the category for whose remuneration level receive the basic remuneration, the maximum amount of charges set for each universe under the terms of the preceding article shall be distributed, by the mentioned order, so that each worker may receive the equivalent amount to his/her monthly basic remuneration.

4 – The grant of performance bonuses shall not take place when, notwithstanding the requirements provided for in paragraph 1 are met, the maximum amount of charges set for the universe in question has been spent with the grant of a bonus to a worker superiorly ordered.

5 – Performance bonuses are related to the performance objectively shown and appraised.

Article 168

Other performance rewarding systems

1 – Other performance rewarding systems may be created, namely according to results achieved in team or in the performance of workers who are placed in the last pay step of the respective category.

2 – The systems referred to in the preceding paragraph may exclude the application of provisions in the present section.

SECTION VI

Deductions

Article 169

Listing

1 – Remunerations required for the performance of functions in a body or service to which the present law is applicable are subject to the following deductions:

a) Compulsory deductions;
b) Optional deductions.

2 – Deductions resulting from legal imposition are of a compulsory nature.

3 – Deductions that are allowed by law and need express authorization of the holder of the right to remuneration are of an optional nature.

4 – In the absence of a special law to the contrary, deductions are made directly by means of withholding at the source.

Article 170

Mandatory deductions

Once the public employment relationship has been formed, the following deductions are mandatory:

a) Individual income tax;
b) Contributions for the social protection system applicable.

Article 171

Optional deductions

1 – Once the public employment relationship has been formed, the following deductions are optional:

a) Sickness insurance premiums or of personal accidents, life insurances and pension complements and pension savings scheme;
b) Trade union fees.

2 – Provided that the worker so requests, trade union fees are compulsorily withheld at the source.

SECTION VII

Compliance

Article 172

Form of the compliance

1 – The remuneration's amount shall be made available to the worker on the due date or on the working day immediately preceding.

2 – In the payment act of the contribution, the public employer shall deliver to the worker a document setting out the identification of that one and the full name of the worker, the registration number with the respective social protection institution, the professional category, the period to which the remuneration relates, discriminating the basic remuneration and the other benefits, discounts and deductions made and the net amount to be received.

Article 173

Time of the compliance

1 – The obligation to meet the remuneration, when this one is periodical, shall be monthly due.

2 – The compliance shall be made on working days.

3 – The public employer shall be deemed in arrears if the worker, for a fact not imputable to him/her, shall not have the remuneration's amount on the due date.

SECTION VIII

Guarantees of compensatory credits

Article 174

Replacement of remunerations and discounts

1 – Pending the public employment relationship, the public employer shall not replace a remuneration for the credits having over the worker, nor make any discounts/deductions to the amount of the referred to remuneration.

2 – The provisions set out in the preceding paragraph are not applicable to:

a) Discounts to the State, social security or of other entities, ordered by law, by final judicial decision or by conciliation agreement document, when the public employer has been notified on the decision or the referred document;
b) Indemnities due by the public employer to the worker, when they are settled by final judicial decision or by conciliation agreement document;
c) Fines or repayment of any amount in which the worker has been convicted within the framework of a disciplinary procedure and has not carried out the respective voluntary payment;
d) Meal prices at the workplace, use of telephones, supply of foodstuffs, fuels or of materials, whenever required by the worker, as well as other expenses incurred by the public employer on behalf of the worker and allowed by this one;
e) Other discounts /deductions provided for in the law.

3 – With exception of subparagraph a) of the preceding paragraph, discounts referred to in the preceding paragraph shall not exceed, as a whole, one sixth of the remuneration.

Article 175

Insusceptibility of assignment of labour credits

The worker shall not assign, whether free of charge or not, his/her credits to remunerations insofar as these cannot be attached.

CHAPTER VII

Exercise of the disciplinary power

SECTION I

General provisions

Article 176

Subjection to the disciplinary power

1 – All workers are disciplinarily held responsible before their hierarchical superiors.

2 – The holders of management bodies of services of the direct and indirect state administration

are disciplinarily held responsible before the member of the Government who exercises the respective oversight or supervision.

3 – The workers shall be subject to the disciplinary power since the formation of the public employment relationship, in any of its forms.

4 – The termination of the public employment relationship or the change of the legal-functional situation of the worker shall not prevent the punishment for infractions committed in the course of the fulfilment of the function.

5 – In the event of termination of the public employment relationship, the disciplinary procedure or the enforcement of any of the penalties provided for in subparagraphs b) to d) of paragraph 1 of article 180 shall be suspended for a maximum period of 18 months, and may be continued if the worker establishes a new public employment relationship for the same functions to which the disciplinary procedure relates and provided that, apart from the time of suspension, no more than 18 months elapse from its initiation until the worker is notified of the final decision.

Article 177

Exclusion of the disciplinary liability

1 – The disciplinary liability of the worker is excluded, who acts in the compliance with orders or instructions that are issued by the legitimate hierarchical superior and in matters pertaining to the service, when previously have complained of them or requested their transmission or confirmation in writing.

2 – Once the order or instruction received has been deemed unlawful the worker makes expressly reference of this fact when complains or requests for its transmission or confirmation in writing.

3 – When the decision concerning the complaint or the transmission or confirmation of the order or instruction in writing have not taken place within the time in which, without prejudice, the compliance of these ones may be delayed, the worker shall also report, in writing to his/her line hierarchical superior, the exact terms of the order or instruction received and of the complaint or request made, as well as the non-meeting of these ones, subsequently executing the order or instruction.

4 – When the order or instruction are given with mention of the immediate compliance with and without prejudice to provisions set out in paragraphs 1 and 2, the communication referred to in the final part of the preceding paragraph is made after the execution of the order or instruction.

5 – The duty of obedience terminates whenever the compliance with orders or instructions shall entail the practice of any crime.

Article 178

Lapsing of the disciplinary offence and disciplinary procedure

1 – The disciplinary offence lapses within the time limit of one year as to the respective practice, save when substantiates also criminal offence, in which case shall be subject to lapsing time limits established in the criminal law on the date of the practice of said facts.

2 – The right to initiate a disciplinary procedure lapses within the time limit of 60 days as from becoming aware of the offence by any hierarchical superior.

3 – The initiation of a disciplinary, inquiry or investigation procedure corresponds to the lapsing time limits referred to in the preceding paragraphs for a maximum period of six months; if in those procedures disciplinary offences are verified, the suspension of the lapsing shall occur even though the procedures are not brought against the worker who benefits from such lapsing.

4 – The suspension of the lapsing time limit of the disciplinary offence operates when, cumulatively:

a) The procedures referred to in the preceding paragraph have been initiated in the 30 days following the suspicion of the practice of facts disciplinarily punishable;
b) The disciplinary procedure subsequent has been initiated within the 30 days following to the receipt of those procedures, for decision, by the competent entity;
c) On the date of initiation of processes and procedures referred to in the preceding subparagraphs, the right to initiate a disciplinary procedure has not been already lapsed.

5 – The disciplinary procedure lapses after 18 months have elapsed, calculated as from the date on which has been initiated when, in that time limit the worker has not been notified on the final decision.

6 – The lapsing of the disciplinary procedure referred to in the preceding paragraph is suspended during the time in which, by virtue of decision or of judicial review of any question, the conduct of the corresponding process may not initiate or continue to take place.

7 – The lapsing runs again as from the day on which the cause of the suspension terminates

Article 179

Effects of the decision and conviction in a criminal procedure

1 – When the perpetrator of a crime whose judgment falls upon the competence of a jury or collective court, is a worker in public functions, the registry of the court where the procedure runs, within the time limit of 24 hours over the final decision of the decision order or equivalent, delivers by way of registration in the case file a copy of such order to the Public Prosecutor's Office, so that this one forwards it to the body or service where the worker fulfils functions.

2 – When a worker in public functions is convicted for the practice of a crime, the provisions set out in the preceding paragraph are to apply with due adaptations.

3 – The conviction in a criminal procedure shall not affect the exercise of the disciplinary action when the criminal offence also constitutes a disciplinary offence.

4 – When the facts committed by the worker are liable to be deemed a criminal offence, information is compulsorily provided of such facts to the competent Public Prosecutor's Office to initiate the criminal procedure, pursuant to article 242 of the Code of Criminal Procedure, passed by Decree-Law No 78/87, of 17 February in the current wording.

SECTION II

Disciplinary sanctions

SUBSECTION I

General provisions

Article 180

Disciplinary sanctions scale

1 – The disciplinary sanctions applicable to workers in public functions for offences committed are as follows:

a) Written warning or reprimand;
b) Fine;
c) Suspension;
d) Disciplinary procedure or dismissal.

2 – The disciplinary sanction of termination of the tenure as main sanction or together with another is applicable to holders of management positions and equivalent posts.

3 – More than one disciplinary sanction shall not be applied for each offence, for offences accumulated that are assessed on one single case file or for offences assessed in joined cases.

4 – The disciplinary sanctions are recorded in the worker's personal file.

Article 181

Characterization of the disciplinary sanctions

1 – The written reprimand or warning consists of a mere reprimand for the irregularity committed.

2 – The fine sanction shall be set in a certain amount and shall not exceed the value corresponding to six daily basic remuneration for each offence and a total value corresponding to the basic remuneration of 90 days per year.

3 – The suspension sanction consists of the full prohibition of the worker be present at the body or service during the sanction period.

4 – The suspension sanction varies between 20 and 90 days for each offence, to a maximum of 240 days per year.

5 – The disciplinary dismissal sanction consists of the permanent prohibition to work at the body or service of a worker with employment contract in public functions, terminating the public employment relationship.

6 – The dismissal sanction consists of the permanent prohibition of a worker appointed to be working at body or service, terminating the public employment relationship.

7 – The termination sanction of the tenure consists of the compulsory termination of the performance of the management position or equivalent post.

Article 182

Effects of disciplinary sanctions

1 – The disciplinary sanctions take solely the effects provided for in the present law.

2 – The suspension sanction determines, for as many days as those of its term, the non-fulfilment of functions and the loss of corresponding remunerations and the calculation of the length of service for seniority.

3 – The application of the suspension sanction shall not affect the right of workers to the maintenance, under the legal terms, of benefits of the respective social protection system.

4 – The sanctions of disciplinary dismissal (for contractual staff), or of dismissal (for appointed staff) shall entail the loss of all worker's rights, save as to the old age retirement or to the retirement, under the terms and conditions provided for in the law, but make not him/her unable to resume functions in a body or service that do not request the specific conditions of dignity and trust that those for which has been fired or dismissed requested.

5 – The sanction of termination of the tenure shall entail the termination of the performance of the management position or equivalent post and the impossibility of performance of any management position or equivalent post for a three-year period, calculated as from the date of decision's notification.

SUBSECTION II

Infractions to which disciplinary sanctions are applicable

Article 183

Disciplinary infraction

Disciplinary infraction is deemed the worker's behaviour, for action or omission, even though merely culpable, that breaches general or special duties inherent to the functions fulfilled.

Article 184

Written reprimand

The disciplinary sanction of written reprimand is applicable to low level infractions of the service.

Article 185

Fine

The disciplinary sanction of fine is applicable to cases of negligence or misunderstanding of functional duties, namely to workers who:

a) Shall not comply with the procedures established or make mistakes for negligence, that shall not entail relevant damage for the service;
b) Shall not obey to orders from the hierarchical superiors, without significant consequences;
c) Shall not be courteous and polite with regard to his/her hierarchical superiors,

subordinates or colleagues or to the public;

d) For the faulty compliance or unawareness of legal and regulatory provisions or superior orders, show lack of zeal and diligence for the service;
e) Shall not make the communications of impediments and suspicions provided for in the Code of Administrative Procedure.

Article 186

Suspension

The disciplinary sanction of suspension is applicable to workers who act with gross negligence or serious disinterest for the compliance with functional duties and to those whose behaviours seriously undermine the dignity and prestige of the function, namely when:

a) Provide wrong information to a hierarchical superior;
b) Appear to the service in a state of drunkenness or under the effect of narcotics or equivalent drugs;
c) Fulfil functions in accumulation, without authorization or in spite of non-authorized or, still, when the authorization has been granted on the basis of information or data, supplied by them, which may prove to be false or incomplete;
d) Demonstrate unawareness of essential regulatory rules of the service, of which has resulted damage for the body or service or for third parties;
e) Provide favourable and preferential treatment to a specific natural or legal entity;
f) Omit information that may or must be provided to a citizen or, with breach of the law in force on access to information, reveal facts or documents related to running or completed administrative procedures;
g) Disobey scandalously, or before the public and in an open space to it, to superior orders;
h) Make false declarations on justification of absences;
i) Breach performance appraisal procedures, including the disclosure of dates unrelated to the moment of the practice of the act;
j) Offend, revile or seriously disrespect hierarchical superior, colleague, subordinate or third party, outside the service areas, for reasons related to the fulfilment of functions;
k) Receive funds, collect revenues or funds, allocations of which shall not report under the legal time limits;
l) Violate, with serious misconduct or deceit, the duty of impartiality in the fulfilment of functions;
m) Uses or permit that others use for himself/herself of any assets whatsoever belonging to bodies or services, whose possession or usage has been entrusted to them, for a purpose other than that for which has been intended;
n) Infringe duties provided for in paragraphs 1 and 2 of article 24.

Article 187

Disciplinary dismissal (for contractual staff) or dismissal (for appointed staff)

The sanctions of disciplinary dismissal (for contractual staff) or of dismissal (for appointed staff) are applicable in the event of infraction that makes unfeasible the maintenance of the public employment relationship under the terms provided for in the present law.

Article 188

Termination of the tenure

1 – The disciplinary sanction of termination of the tenure is applicable, principally, to holders of management positions and to equivalent posts that:

a) Not to take disciplinary action against workers their subordinates for infractions of which they are aware;
b) Not to take criminal action of a disciplinary infraction of which they are aware in the fulfilment of their functions, that has criminal nature;
c) Authorize, inform favourably or omit information, regarding the juridical and functional situation of workers, in violation of norms that regulate the public employment relationship;
d) Violate the rules related to the conclusion of service delivery contracts.

2 – The disciplinary sanction of termination of the tenure is always applied additionally to holders of management positions and equivalent posts for any disciplinary infraction punished with disciplinary sanction equal or higher than that of the fine.

Article 189

Measure of disciplinary sanctions

In the application of disciplinary sanctions, the general criteria listed in articles 184 to 188, the nature, the mission and duties of the body or service, position or category of the worker, particular responsibilities inherent to the form of the public employment relationship, degree of guilty, personality and all circumstances in which the infraction has been committed that mitigate against or in favour of him/her are taken into consideration.

Article 190

Diriment, mitigating circumstances of the disciplinary responsibility

1 – The diriment circumstances of the disciplinary responsibility are as follows:

a) The physical duress;
b) Accidental and unintended deprivation of the exercise of intellectual faculties at the moment of the practice of the offence;
c) The own or of other self-defence;
d) The non-demand of different behaviour;
e) The exercise of a right or the compliance with a duty.

2 – The mitigating circumstances of the disciplinary offence are as follows:

a) The performance of more than 10 years of service with exemplary behaviour and zeal;
b) Spontaneous confession of the offence;
c) The performance of relevant services to the Portuguese people and the acting with merit in the defence of freedom and democracy;
d) The provocation;
e) Well-intentioned compliance with order or instruction given by the hierarchical superior, in cases in which the obedience would not be due.

3 – When there are mitigating circumstances that reduce substantially the guilty of the worker, the disciplinary sanction may be minimised, and a lower disciplinary sanction may be applied.

Article 191

Special aggravating circumstances of the disciplinary responsibility

1 – The special aggravating circumstances of the disciplinary offence are as follows:

a) The intention of, by the conduct followed, produce harmful results to the body or service or to the general interest, irrespective of these have been verified;
b) The actual and effective production of adverse results to the body or service or to the general interest, in cases in which the worker could predict that consequence as effect of his/her conduct;
c) The premeditation;
d) The co-participation with other persons for their practice;
e) The fact of having been committed during the enforcement of the disciplinary sanctions or while the suspension period of the disciplinary sanction elapses;
f) The recurrence;
g) The accumulation of offences.

2 – The premeditation consists of the intention of committing an offence, at least, 24 hours before its practice.

3 – The recurrence takes place when the offence is committed before one year over the day on which the enforcement of the disciplinary sanction applied by virtue of prior offence has elapsed.

4 – The accumulation occurs when two or more offences are committed on the same occasion or when one is committed before the prior one has been punished.

Article 192

Suspension of the disciplinary sanction

1 – The disciplinary sanctions provided for in subparagraphs a) to c) of paragraph 1 of article 180 may be suspended when, in view of the worker's personality, conditions of his/her life, prior and subsequent conduct as to the offence and circumstances of this one, may be concluded that the simple reproach of the behaviour and the threat of disciplinary sanction achieves the purposes of the punishment in an appropriate and sufficient way.

2 – The suspension time of the disciplinary sanction shall not be lower than six months for disciplinary sanctions of written reprimand and fine and one year for the disciplinary sanction of suspension, Nor higher than one and two years, respectively.

3 – Times provided for in the preceding paragraph are calculated as from the date of the worker's notification of the respective decision.

4 – The suspension expires when the worker is convicted again under disciplinary proceedings during its term.

Article 193

Limitation of disciplinary sanctions

The disciplinary sanctions prescribed in the following time limits, calculated as from the date on which the decision has become not exceptionable:

a) One month, in cases of disciplinary sanction of written reprimand;
b) Three months, in cases of disciplinary sanction of fine;
c) Six months, in cases of disciplinary sanction of suspension;
d) One year, in cases of disciplinary sanctions of disciplinary dismissal on the employer's initiative or of dismissal at the request of the worker and of termination of the tenure.

SECTION III

Disciplinary procedures

SUBSECTION I

General provisions

Article 194

Obligation of disciplinary procedure

1 – The disciplinary sanctions of fine and higher are always applied after the establishment of the facts under disciplinary procedure.

2 – The disciplinary sanction of written reprimand is applied without depending upon a procedure, but with worker's hearing and defence.

3 – At the worker's request a document setting out the legal steps and results referred to in the preceding paragraph shall be drawn up, with the presence of two witnesses indicated by him/her.

4 – For the purposes of provisions set out in paragraph 2, the worker has the maximum time limit of five days, so wishing, to submit his/her defence in writing.

Article 195

Forms of procedure

1 – The disciplinary procedure may be common or special.

2 – The special procedure is applied to cases expressly provided for in the law and the common one to all cases unrelated to the special procedure.

3 – The special procedures are regulated by provisions specific to them and, in the part therein not provided for by provisions related to the common procedure.

Article 196

Competence to initiate a disciplinary procedure

1 – Without prejudice to provisions set out in in the following paragraphs, any hierarchical superior even though not competent to apply the sanction is however competent to initiate or to have initiated disciplinary procedure against the respective subordinates.

2 – It is incumbent upon the respective member of the Government to initiate the disciplinary procedure against the top managers of bodies or services.

3 – The disciplinary competence of the hierarchical superiors involves that of their hierarchical inferiors within the body or service.

Article 197

Competence to apply disciplinary sanctions

1 – The application of the disciplinary sanction provided for in subparagraph a) of paragraph 1 of article 180 falls upon all hierarchical superiors in relation to their subordinates.

2 – The application of the remaining disciplinary sanctions provided for in paragraphs 1 and 2 of article 180 falls upon the top manager of the body or service.

3 – It is incumbent upon the respective member of the Government to apply any disciplinary sanction to top managers of bodies or services.

4 – In local authorities, associations and federations of municipalities, as well as in municipal services, the application of disciplinary sanctions provided for in paragraphs 1 and 2 of article 180 is of the responsibility, respectively of the corresponding executive bodies, as well as of the boards of directors.

5 – In district assemblies, the application of disciplinary sanctions provided for in paragraphs 1 and 2 of article 18 is of the responsibility of the respective plenary.

6 – The competence provided for in the preceding paragraphs is non-delegable.

Article 198

Place of initiation and change of body or service pending the procedure

1 – The disciplinary procedure is initiated in the body or service where the worker fulfils functions on the date of the offence.

2 – When, after the practice of a disciplinary infraction or already pending the respective procedure, the worker changes of body or service, the disciplinary sanction is applied by the competent entity on the date in which the decision has to be taken, without prejudice to the procedure that have been initiated and have been prepared within the framework of the body or service where the worker fulfilled functions on the date of the offence.

Article 199

Joining of procedures

1 – For all infractions still not punished committed by a worker a single procedure shall be initiated.

2 – Once several procedures have been initiated, they are all joined to that which has been firstly initiated.

3 – When, before the decision of a procedure, new disciplinary procedures against the same worker are initiated, for infraction committed in the fulfilment of functions, in accumulation, in other bodies or services, the new procedures are joined to the first one, and the examination and preparation of all of them shall fall upon the examining officer of this one.

4 – In the case referred to in the preceding paragraph, the initiation of disciplinary procedures shall be reported to bodies or services where the worker fulfils functions, in the same way it will also be made in relation to the decision taken.

Article 200

Secret nature of the procedure

1 – The disciplinary procedure is of a secret nature until the indictment, may, however, be made available to the worker at his/her request, for examination, on condition of not disclosing which therein is set out.

2 – The refusal of the request referred to in the preceding paragraph shall be communicated to the worker within the time limit of three days.

3 – Notwithstanding its secret nature, the issuance of certificates shall be allowed when intended to the defence of legally protected interests and in view of the request specifying the purpose intended, however its publication may be prohibited, under disciplinary sanction of disobedience.

4 – The issuance of certificates shall be authorized by the examining officer until the term of the worker's defence phase; such issuance is free of charge when requested by this one.

5 – A new disciplinary procedure shall be initiated to the worker who discloses matter of a secret nature, as per the present article.

Article 201

Form of procedural acts and unofficial acts

1 – The form of the acts, when it is not regulated by law, adjusts itself to the intended purpose and is limited to the necessary to reach that goal.

2 – In omitted cases, the examining officer may take the necessary steps which appear to be the most appropriate for the ascertainment of the truth, pursuant to general principles of the criminal procedure.

Article 202

Appointment of a lawyer

1 – The worker may appoint and be represented by a lawyer in any phase of the procedure, under the general terms of the law.

2 – The lawyer exercises the rights that the law recognises to the worker.

Article 203

Nullities

1 –The nullity resulting from the absence of worker's hearing set out in articles of indictment shall not be filled, as well as that which results from the omission of any essential steps for the ascertainment of the truth.

2 – The other nullities are deemed filled when they are not object of complaint by the worker until the final decision.

3 – The order that rejects the request for any evidentiary steps may be object of hierarchical or supervisory appeal for the respective member of the Government, to be lodged within the time limit of five days.

4 – The appeal referred to in the preceding paragraph follows immediately, being deemed well-founded when, within the time limit of 10 days, no decision has been taken that expressly rejects it.

Article 204

Change of the juridical and functional situation of the worker

The worker object of disciplinary procedure, even though preventively suspended, shall not be prevented from changing, under the legal terms, his/her juridical and functional situation, namely applying for open competition procedures.

SUBSECTION II

Common disciplinary procedure

DIVISION I

Examining phase of the procedure

Article 205

Beginning and term of the examination

1 – The examination of the disciplinary procedure begins within the maximum time limit of 10 days, calculated as from the notification date to the examining officer of the order that have initiated it, and is completed within the time limit of 45 days; this time limit may only be exceeded by order of the entity that has initiated it, on a reasoned proposal of the examining officer, in cases of exceptional complexity.

2 – The time limit of 45 days referred to in the preceding paragraph is calculated as from the beginning of the examination, established under the terms of the following paragraph.

3 – The examining officer shall inform the entity that has appointed him/her, as well as the worker and the officer who reports the infraction, on the date on which the examination shall initiate.

4 – The disciplinary procedure is urgent, without prejudice to guarantees of the worker's hearing and defence.

Article 206

Reporting of an infraction or complaint

1 – All those who are aware that a worker practiced a disciplinary infraction may report it to any hierarchical superior of that one.

2 – When it is verified that the entity that received the reporting or complaint has no competence to initiate the disciplinary procedure, those are immediately delivered to the competent entity for the purpose.

3 – For the purposes set out in provisions included in the following paragraph, when a worker no longer shall not appear before the service, without justification, for five followed days or ten interpolated days, the respective hierarchical superior reports the fact, immediately, to the top manager of the body or service.

4 – The top manager of the body or service may consider, from the disciplinary point of view, justified the absence, determining the immediate filing of the reporting when the worker provides evidence of the reasons taken into consideration.

5 – The reports or verbal complaints are put in writing for those who receive them.

6 – When concludes that the reporting is groundless and intentionally presented with a view to affecting the worker or that contains slanderous or injurious matter, the competent entity to punish reports the fact criminally, without prejudice to initiate disciplinary procedure to the worker.

Article 207

Preliminary injunction

1 – Once the reporting or complaint has been received, the competent entity to initiate disciplinary procedure decides whether it should or not take place.

2 – When it is intended that there is no place to initiate a disciplinary procedure, the entity referred to in the preceding paragraph orders to file the reporting or complaint.

3 – Otherwise, a disciplinary procedure is initiated or its initiation is determined.

4 – When it has not competence to apply a disciplinary sanction and deems that there is no room to initiate a disciplinary procedure, the entity referred to in paragraph 1 shall submit the issue for a decision to be taken by the competent entity.

Article 208

Appointment of the examining officer

1 – The entity that initiates the disciplinary procedure appoints an examining officer, chosen from among the workers of the same body or service, holder of a position or of career or category of functional complexity higher than that of the worker or, when impossible, with higher seniority in the same position or in a career or category of identical functional complexity or in the fulfilment of functions of public functions, by preferring those who have appropriate juridical training.

2 – In justified cases, the entity referred to in the preceding paragraph may request to the respective top manager the appointment of an examining officer from other body or service.

3 – The examining officer may choose a secretary of his/her trust, whose appointment is of the responsibility of the entity that appointed him/her, and, as well as, request the collaboration of technicians.

4 – Examination functions prevail over any others that the examining officer would be responsible, becoming exclusively assigned to those.

Article 209

Suspicion of the examining officer

1 – The worker and the complainer may raise suspicion as to the examining officer of the disciplinary procedure when circumstance occurs that reasonably may raise suspicion as to suspect as to his/her impartiality and uprightness of his/her conduct, namely:

a) When the examining officer has been directly or indirectly affected by the infraction;
b) When the examining officer is relative in direct line or up to the 3rd degree in the collateral line of the worker, complainer or any worker or private individual offended or of someone who, with the referred to private individuals, cohabites and shares the same household with him/her;
c) When a legal proceeding is pending in which the examining officer and the worker or the complainer are intervening parties;
d) When the examining officer is creditor or debtor of the worker or complainer or of any relative in direct line or up to the 3rd degree in the collateral line;
e) When there is serious hostility or great intimacy between the worker and the examining officer or between this one and the reporting officer or the offended one.

2 – The entity that has initiated the disciplinary procedure shall decide, on a reasoned order, within the maximum time limit of 48 hours.

Article 210

Precautionary measures

It is incumbent upon the examining officer to take, since his/her appointment, the appropriate measures so that the state of facts and documents may not be changed whereby it has been ascertained or it is presumed to exist any irregularity, nor subtract evidences thereof.

Article 211

Preventive suspension

1 – The worker may, on a proposal from the entity that has initiated the disciplinary procedure or of the examining officer, and by way of order from the top manager of the body or service, be preventively suspended from the fulfilment of functions, without loss of the basic remuneration, until decision of the procedure, but for a time limit not higher than 90 days, whenever his/her presence proves to be inappropriate for the service or for the ascertainment of the truth.

2 – The suspension provided for in the preceding paragraph may only take place in the case of infraction punishable with disciplinary sanction of suspension or higher.

3 – The notification of the preventive suspension shall be accompanied by indication, even though generic, of the infraction or infractions attributable to the worker.

Article 212

Examination of the procedure

1 – The examining officer will pursue the order with the reporting or complaint and makes the examination, by hearing the reporting officer, the witnesses by him/her indicated and others deemed necessary, making examinations and taking steps that may ascertain the truth and joining the disciplinary registration certificate of the worker to the case file.

2 – The examining officer hears the worker, at the request of this one and whenever so deems appropriate, until examination completion and may also cross-examine and confront him/her with the witnesses or with the complainer.

3 – During the examination phase, the worker may request to the examining officer to take the steps for which he/she is empowered with and that the former deems as essential for the ascertainment of the truth.

4 – When the examining officer deems sufficient the evidence produced may, on a reasoned order reject the request referred to in the preceding paragraph.

5 – The steps that have to be taken outside the place where the disciplinary procedure runs may be requested to the respective administrative or police authority.

6 – In the examination phase of the procedure the number of witnesses is limited, and the provisions set out in paragraphs 4 and 5 are to apply.

7 – During the examination phase and until the drawing up of the final report, may be heard, at the request of the worker, representatives of the trade union association to which he/she belongs.

Article 213

Term of the examination

1 – Once the examination has been completed, when the examining officer deems that the facts set out in the case file do not constitute disciplinary infraction, that the worker has not been the perpetrator of the infraction or that the disciplinary responsibility shall not be requested by virtue of expiry or of other reason, draws up, within the time limit of five days, the final report,

that forwards immediately with the respective procedure to the entity that has initiated it, with filing proposal.

2 – In the opposite case to the referred to preceding paragraph, the examining officer brings charges articulately, within the time limit of 10 days.

3 – The charges contain the indication of facts integrated in the same, as well as the circumstances of time, mode and place of the practice of the infraction, as well as of those that integrate mitigating and aggravating circumstances, adding the reference to the respective legal precepts and the disciplinary sanctions applicable.

DIVISION II

Defence phase of the worker

Article 214

Notification of the indictment

1 – A copy shall be extracted from the indictment, within the time limit of 48 hours, to be delivered to the worker by way of personal notification or, if this is not possible, by registered letter with return receipt, a time limit between 10 and 20 days to present his/her written defence shall be scheduled.

2 – When the notification under the terms of the preceding paragraph is not possible, namely for being unaware the whereabouts of the worker, a notice shall be published in the 2nd Series of the Official Gazette, notifying him/her to submit his/her defence within a time limit not lower than 30 days nor higher than 60 days, calculated as from the date of the publication.

3 – The notice shall only contain the reference that a disciplinary procedure is pending against the worker and indicate the time limit set to present his/her defence.

4 – When the procedure is complex, for the number and nature of infractions or for covering several workers, and preceding authorization of the entity that has initiated the procedure, the examining officer may grant a time limit higher than that provided for in paragraph 1, until the limit of 60 days.

5 – When sanctions of disciplinary dismissal, dismissal for other grounds or termination of the tenure are liable to be applied, a copy of the indictment shall be also forwarded, within the time limit provided for in paragraph 1, to the workers' committees, and when the worker is a trade union representative to the respective trade union association.

6 – The forwarding of the copy of indictment, under the terms of the preceding paragraph, shall not take place when the worker has opposed to it, in writing during the examination phase.

Article 215

Physical or mental disability

1 – When the worker is unable to organize his/her defence on grounds due to illness or duly proven physical disability, may appoint a representative particularly empowered for the purpose.

2 – When the worker may not exercise the right referred to in the preceding paragraph, the

examining officer appoints him/her immediately a curator, preferably the person who should be responsible for the supervision if it was requested pursuant to the civil law.

3 – The appointment referred to in the preceding paragraph is restricted to the disciplinary procedure, and the representative may use all defence means provided to the worker.

4 – When the examining officer has doubts on whether the mental state of the worker prevents him/her to organize his/her defence, may request a psychiatric medical expertise under the terms of paragraph 6 of article 159 of the Criminal Procedure Code, applicable with due adaptations.

5 – The carrying out of the psychiatric medical expertise may also be requested as per paragraph 7 of article 159 of the Criminal Procedure Code, applicable with due adaptations.

Article 216

Review of the procedure and presentation of the defence

1 – Without prejudice to provisions set out in the following article, during the time limit for presentation of the defence, the worker, his/her representative or curator referred to in the preceding paragraph may as well as the lawyer appointed by any of them, review the procedure at any office hours.

2 – The response is signed by the worker or by any of his/her representatives referred to in the preceding paragraph and shall be presented at the place where the procedure has been initiated.

3 – When it is forwarded by mail, the response is deemed presented on the date of said forwarding.

4 – In the response, the worker sets out with clarity and concision the facts and reasons of his/her defence.

5 – The response that reveals or is translated in infractions strange to the indictment and that shall not interest to the defence shall be fined and from it shall be drawn up a certificate that will be regarded as reporting for the purposes of a new procedure.

6 – The worker with the response may submit the list of witnesses and join documents, requesting also the taking of any legal steps.

7 – Failure to respond within the scheduled time limit shall be deemed as actual and effective hearing of the worker, for all legal purposes.

Article 217

Confidence in the procedure

The procedure may be entrusted to the worker's lawyer, under the terms and legal prescription provided for in the Civil Procedure Code, applicable with due adaptations.

Article 218

Production of evidence submitted by the worker

1 – The legal steps requested by the worker may be rejected by order of the examining officer, duly grounded, when they are manifestly impertinent and unnecessary.

2 – For each fact shall not be heard more than three witnesses, those who do not reside in the place where the procedure runs may be heard, at the request of any administrative authority when the worker shall not commit himself/herself to present them.

3 – The examining officer may reject the cross-examination of witnesses when deems sufficiently proven the facts alleged by the worker.

4 – The authority to whom the cross-examination is requested, under the terms of the final part of paragraph 2 may appoint an ad hoc examining officer for the act requested.

5 – The legal steps for the cross-examination of witnesses are notified to the worker.

6 – The provisions set out in articles 111 and following of the Criminal Procedure Code are applicable to the cross-examination referred to in the final part of paragraph 2, with due adaptations.

7 – The worker's lawyer may be present and intervene in the cross-examination of the witnesses.

8 – The examining officer cross-examines the witnesses and gathers the other evidence data provided by the worker, within the time limit of 20 days, which may be extended, by order, up to 40 days, when the steps so request it as referred to in the final part of paragraph 2.

9 – Once the production of evidence has been ended provided by the worker, further steps may be decided by order that determines that they are deemed indispensable to the full ascertainment of the truth.

DIVISION III

Decision phase

Article 219

Final report of the examining officer

1 – Once the defence phase of the worker has been ended, the examining officer draws up, within the time limit of five days, a full and concise final report where the material existence of absences is set out, its qualification and seriousness, amounts that may have to be put back and respective destination, as well as the disciplinary sanction that deems fair or the proposal so that the case is closed for being inconsistent the charge, namely for the unimputability of the worker.

2 – The competent entity for the decision may, when the complexity of the process so requires it, extend the time limit set in the preceding paragraph, up to the total limit of 20 days.

3 – The procedure, after being reported, shall be forwarded, within the time limit of 24 hours, to the entity that has initiated it, which when it is not competent to decide, forwards it within the time limit of two days to whom shall take the decision.

4 – When it is proposed the application of disciplinary sanctions of dismissal, dismissal for other reasons or termination of the tenure, the competent entity for decision presents the procedure,

by way of full copy, to the workers' committee and, when the worker is a trade union representative to the respective trade union association, that may, within the time limit of five days, join a reasoned opinion.

5 – The forwarding of the decision, pursuant to the preceding paragraph, shall not take place when the worker has opposed to it in writing during the examination phase.

Article 220

Decision

1– Once the opinion referred to in paragraph 4 of the preceding article has been attached, or the time limit for the purpose has been elapsed, where appropriate, the competent entity shall analyse the procedure, agreeing or not with conclusions of the final report, and may decide the taking of new steps, to be carried out within the time limit established for this purpose.

2– Before the decision, the competent entity may request or determine the issue, within the time limit of 10 days, of an opinion by the hierarchical superior of the worker or of the organic units of the body or service to which he/she belongs.

3 – The order that decides the taking of new steps or that requests the issue of an opinion shall be decided within the maximum time limit of 30 days, calculated as from the date of receipt of the procedure.

4 – The decision of the procedure is always reasoned when not agreeing with the proposal formulated in the final report of the examining officer, being taken within the maximum time limit of 30 days, calculated as from the following dates:

a) As from the receipt of the process, when the competent entity to punish agrees with conclusions of the final report;
b) As from the term of the time limit that is scheduled, when orders the taking of new steps;
c) As from the term of the time limit set to issue the opinion.

5 – In the decision, facts shall not be invoked not set out in the charge nor referred to in the worker's response, except when exclude, solve or mitigate his/her disciplinary responsibility.

6 – The non-compliance with the time limits referred to in paragraphs 3 and 4 shall entail the expiry of the right to apply the sanction.

Article 221

Plurality of workers indicted

1 – When several workers are indicted for the same fact or facts between them connected, the entity that has competence to sanction the worker of position or of category of higher functional complexity shall decide as to all workers.

2 – When workers are holders of the same position or career or category of identical functional complexity, the decision shall fall upon the entity empowered to sanction the worker with higher seniority in the fulfilment of public functions.

Article 222

Notification of the decision

1 – The decision shall be notified to the worker, the system set out for the notification of the charge shall be observed with due adaptations.

2 – The entity that has decided the procedure may authorize that the notification of the worker be delayed for the maximum time limit of 30 days, when it deals with a disciplinary sanction that shall entail suspension or termination of functions on the part of the offender, provided that from the execution of the disciplinary decision may result for the service most serious inconveniences than those arising from the permanence of the worker punished in the fulfilment of his/her functions.

3 – On the date that the notification is made to the worker the examining officer and the complainer are also notified, when this one has so required.

4 – When the procedure has been presented to the structures of workers' representation, the decision shall also be communicated to the workers' committee and to the trade union association.

Article 223

Commencement of the production of effects of the disciplinary sanctions

The disciplinary sanctions produce effects on the following day of the notification of the worker or, if this one may not be notified, 15 days after the publication of the notice in the 2nd Series of the Official Gazette.

DIVISION IV

Challenges

Article 224

Challenge means

The acts made under disciplinary procedure may be challenged by hierarchical or supervisory means, pursuant to the Code of Administrative Procedure, or by jurisdictional action.

Article 225

Hierarchical or supervisory appeal

1 – The worker and the complainer may lodge hierarchical or supervisory appeal of orders and decisions that are not of mere daily business, taken by the examining officer or by hierarchical superiors of that one.

2 – The appeal is lodged directly to the respective member of the Government, within the time limit of 15 days, calculated as from the notification of the order or decision, or of 20 days calculated as from the publication of the notice referred to in paragraph 2 of article 214.

3 – When the order or decision has not been notified or when the notice has not been published, the time limit is calculated as from the awareness of the order or decision.

4 – The hierarchical or supervisory appeal shall suspend the effectiveness of the order or decision appealed, except when the appellant deems that its non–immediate execution may cause serious damage to the public interest.

5 – The member of the Government may repeal the decision of non-suspension referred to in the preceding paragraph or take it when the author of the order or decision appealed has not taken it.

6 – In local authorities, associations and federations of municipalities, as well as in municipal services there is no place to supervisory appeal.

7 – The disciplinary sanction may be aggravated or replaced by a more serious disciplinary sanction as a result of the complainer's appeal.

Article 226

Other evidence means

1 – With the request for lodgement of the appeal, the appellant may request new evidence means or join documents that deems appropriate, provided that they could not have been requested or used in due time.

2 – The member of the Government may also determine the taking of new evidence steps.

3 – The steps referred to in the preceding paragraphs are authorized or determined within the time limit of five days, are initiated in identical time limit and are completed within the time limit that the member of the Government so intends it to set.

Article 227

Rise of appeals at a higher level system

1 – Without prejudice to provisions set out in paragraph 4 of article 203 and in the following paragraphs, the appeals lodged against the orders or decisions that shall not put an end to the procedure, rise in the case files attached to the final decision when there is an appeal against it.

2 – The hierarchical or supervisory appeals rise immediately attached to the case files, that remaining retained, loose useful effect for this fact.

3 – It rises immediately attached to the case files the hierarchical or supervisory appeal lodged against the order that shall not accept the suspicion in relation to the examining officer and the grounds invoked in the same suspicion.

Article 228

Renewal of the disciplinary procedure

1 – When the act of application of the disciplinary sanction has been judicially challenged on the ground of infringement of essential formality in the course of the disciplinary procedure, the initiation of the disciplinary procedure may be renewed up to the term of the time limit to challenge the judicial action.

2 – The provisions set out in the preceding paragraph are applicable when, cumulatively:

a) The time limit referred to in the paragraph 1 of article 178 has not been yet elapsed on

the date of renewal of the procedure;

b) The reasoning of the challenge has not been previously appraised under hierarchical or supervisory appeal that has been rejected;
c) Be the first time the renewal of the procedure has taken place.

SUBSECTION III

Special disciplinary procedures

DIVISION I

Inquiry and investigation procedures

Article 229

Inquiry and investigation

1 – The members of the Government and the top managers of bodies or services may order inquiries or investigations to bodies, services or organic units on their dependency or subject to their supervision.

2 – The inquiry aims to establish determined facts and the investigation is destined to a general enquiry on the functioning of the body, service or organic unit.

Article 230

Announcements and public notices

1 – In the investigation procedure, the investigator, as soon as he/she shall begin it, make him/her set out by announcements published in two newspapers, one with national wide circulation and the other with regional circulation, and by means of public notices, whose affixing shall be requested to the police or administrative authorities.

2 – In the announcements and public notices shall be declared that every person who has reason to make a complaint or have a grievance against the regular functioning of bodies, services or organic units investigated may be submit to the investigator within the time limit established, or make a complaint in writing and by mail to him/her.

3 – The complaint in writing shall contain full identification data of the complainer.

4 – Within the time limit of 48 hours after the receipt of the complaint, the investigator shall notify the complainer, by scheduling him/her the day, hour and place to make declarations.

5 – The publication of announcements by the press is compulsory for all journals to which they are forwarded being applicable in the case of refusal, the disciplinary sanction corresponding to the crime of qualified disobedience, the expenses resulting from the publication of the announcements shall be submitted by the investigator along with supporting documents for payment purposes.

Article 231

Report and subsequent steps

1 – Once the examination has been completed, the inquirer or investigator draws up, within the time limit of 10 days, the report, that forwards immediately to the entity that has initiated the procedure.

2 – The time limit set in the preceding paragraph may be extended by the entity that has initiated the procedure up to the maximum limit, non-extendable, of 30 days, when the complexity of the procedure so justifies it.

3 – Once the existence of disciplinary infractions has been verified, the entity that has initiated the procedures shall initiate the disciplinary procedures that should occur.

4 – The inquiry or investigation procedure may constitute, by decision of the entity referred to in paragraph 2, the examination phase of the disciplinary procedure, bringing the examining officer, within the time limit of 48 hours' charges against the worker or workers, followed by other terms provided for in the present law.

5 – In the inquiry procedures, the workers concerned may, at any time, appoint a lawyer.

DIVISION II

Special disciplinary procedure of investigations

Article 232

Initiation

1 – When a worker with public employment relationship has obtained two consecutive negative performance appraisals, the top manager of the body or service shall initiate, compulsory and immediately an investigation procedure.

2 – The provisions set out in the preceding paragraph are not applicable to holders of management positions or equivalent posts.

3 – The investigation procedure is intended to ascertain if the performance that has justified those appraisals constitutes disciplinary infraction imputable to the worker appraised for culpable breach of functional duties, namely the duty of zeal.

4 – The non-attendance of training or the attendance of inappropriate training at the time of the first negative appraisal of the worker is cause of exclusion of culpability of violation of functional duties.

5 – The investigation procedure expires after three months has elapsed, calculated as from the date in which has been initiated when, in that time limit, the receipt of the final report by the competent entity has not taken place.

6 – When in the investigation procedure, evidence of violation of other functional duties are detected by any of the intervening parties in the performance appraisal procedures, the examining officer shall report them to the top manager of the body or service, for the purposes of possible initiation of the corresponding inquiry or disciplinary procedure.

Article 233

Procedural steps

1 – The top manager of the body or service appoints the investigator from among managers who never have appraised the worker or, in the absence of these ones, requests to other top manager of other body or service to appoint him/her.

2 – The investigator gathers all documents related to appraisals and the training attended and hears, compulsorily, the worker and all appraisers who have had intervention in the negative appraisals.

3 – When any appraiser may not be heard, the investigator justifies in considerable detail that fact in the final report, referring and documenting, namely, all steps taken to achieve it.

4 – The worker may indicate the maximum of three witnesses, who the investigator compulsorily hears, and join documents until the term of the examination.

5 – All examining steps are completed within the maximum time limit of 20 days, calculated as from the date of initiation of the procedure, which shall be communicated to the top manager of the body or service and to the worker.

Article 234

Report and decision

1 – Within the time limit of 10 days, calculated as from the date of completion of the examination, the investigator draws up the final report duly grounded, that forwards to the maximum top manager of the body or service, in which may propose:

a) the filing of the procedure, when deems that a disciplinary procedure shall not take place for absence of infringement of functional duties;
b) the initiation of the disciplinary procedure for breach of functional duties.

2 – When the top manager of the body or service has been one of the worker's appraisers, the procedure shall be forwarded to the respective member of the Government for decision.

3 – The provisions set out in the preceding paragraph are not applicable to local authorities, associations and federations of municipalities, as well as to municipal services.

4 – The provisions set out in paragraphs 4 and 5 of article 231 are applicable to the investigation procedure, with due adaptations.

5 – Once the initiation of the disciplinary procedure has been proposed, the infraction shall be deemed committed, for all legal purposes, namely those provided for in article 178, on the date of that proposal.

DIVISION III

Review of the disciplinary procedure

Article 235

Requirements for the review

1 – The review of the disciplinary procedure shall be allowed, at any time, when circumstances

or evidence means liable to demonstrate the inexistence of facts that determined the conviction are verified, provided that they could not have been used by the worker in the disciplinary procedure.

2 – The simple illegality of form or of the substance, of the procedure and the disciplinary decision shall not constitute grounds for the review.

3 – The review may lead to the repeal or to the change of the decision taken in the procedure reviewed, and the penalty shall not in any case be aggravated.

4 – The pending of the hierarchical or supervisory appeal or jurisdictional action shall not affect the request for review of the disciplinary procedure.

Article 236

Legitimacy

1 – The person concerned in the review of the disciplinary procedure or, in cases provided for in paragraph 1 of article 215, his/her representative, submits request in that regard to the entity that has applied the disciplinary sanction.

2 – The request indicates the circumstances or evidence means not taken into consideration in the disciplinary procedure that to the applicant seem to justify the review and is investigated with the indispensable documents.

Article 237

Decision on the request

1 – Once the request has been received, the entity that has applied the disciplinary sanction shall decide, within the time limit of 30 days, if the review of the procedure shall be or not be granted.

2 – The order that shall not grant the review is challengeable under the terms of the Procedure Code in the Administrative Courts.

Article 238

Legal steps

1 – When the review has been granted, the request and the order are joined to the disciplinary procedure, being appointed the examining officer different from the first one, who schedules to the worker a time limit not lower than 10 days nor higher than 20 days to respond in writing to charge articles set out in the procedure to be reviewed, followed by the terms of articles 222 and following.

2 –The review process of the procedure shall not suspend the compliance with the sanction.

Article 239

Effects of the preceding review

1 – If the review is deemed well-founded, the decision taken in the procedure reviewed shall be repealed or changed.

2 – The repeal produces the following effects:

a) Cancellation of the disciplinary sanction registration in the worker's personal file;
b) Annulment of the sanction effects.

3 – In the case of repeal or of change of disciplinary sanctions of disciplinary dismissal for contractual staff, or dismissal for appointed staff, the worker is entitled to re-establish the public employment relationship in the mode where it was formed.

4 – In any case of repeal or change of the sanction, the worker is still entitled to:

a) Reform the current hypothetical juridical and functional situation;
b) Being indemnified, pursuant to the general law terms, for the moral and property damages suffered.

DIVISION IV

Rehabilitation

Article 240

System applicable

1 – The workers convicted in any disciplinary sanctions may be rehabilitated irrespective of the review of the disciplinary procedure, the entity responsible for the application of the sanction shall be competent for the purpose.

2 – The rehabilitation shall be granted to whom has deserved it for his/her good conduct. The interested person may use all evidence means allowed by law to prove it.

3 – The rehabilitation shall be requested by the worker or by his/her representative, after elapsed the following time limits on the application of disciplinary sanctions of written reprimand, disciplinary dismissal, dismissal for other reasons and termination of the tenure or on the compliance with disciplinary sanctions of fine and suspension, as well as on the course of the suspension time of any sanction:

a) Six months, in the case of written reprimand;
b) One year, in the case of a fine;
c) Two years, in the case of suspension and termination of the tenure;
d) Three years, in the case of disciplinary dismissal for contractual staff or dismissal for appointed workers.

4 – The rehabilitation shall terminate the disabilities and other effects of the conviction still subsisting, and shall be recorded in the worker's personal file.

5 – The grant of rehabilitation shall not give the worker to whom disciplinary sanction of dismissal or dismissal for other reason has been applied, the right of, for this fact, re-establish the previously formed public employment relationship.

CHAPTER VIII

Amending vicissitudes

SECTION I

Temporary transfer of a worker due to public interest

Article 241

General rules of temporary transfer due to public interest

1 – Through an agreement of temporary transfer due to public interest between the public employer and an employer outside the scope of application of the present law a worker may be made available to perform his/her subordinate activity, with maintenance of the initial employment relationship.

2 – The agreement of temporary transfer due to public interest requires authorization of the worker together with the authorization of the member of the Government who fulfils management, or supervision powers over the public employer and, in the case of dealing with a worker with employment relationship to an employer outside the scope of application of the present law, of authorization of the members of the Government in charge of finance and public administration areas.

3 – The temporary transfer due to public interest shall determine for the worker in public functions the suspension of the respective employment relationship, save where otherwise provided by legal provision.

4 – There shall not take place, during the time limit of one year, the temporary transfer due to public interest for the same body or service or for the same entity of a worker who has been temporarily transferred and has returned to the juridical and functional situation of origin.

5 –The agreement of temporary transfer due to public interest may terminate at any time, at the initiative of any of the parties including the worker, with 30 days' prior notice.

6 – In the case of suspension of the employment relationship, the termination of the agreement of temporary transfer due to public interest produces the effects of the suspension for prolonged impediment provided for in the present law or in the Labour Code, as the case may be.

Article 242

Juridical system of the temporary transfer due to public interest

1 – The worker temporarily transferred shall be subject to the juridical system applicable to the recipient's employer and to provisions set out in the present article, save when there has not been suspension of the employment relationship, case in which the situation shall be regulated by the juridical system of origin, including in relation to remuneration.

2 – The temporary transfer due to public interest shall subject the worker to orders and instructions made by the employer where he/she shall perform functions, being compensated by the recipient's entity, unless otherwise agreed.

3 – The worker transferred is entitled to:

a) The calculation, in the category of origin, length of service performed under a temporary transfer due to public interest system;
b) Opt for the maintenance of the social protection system of origin, falling the deductions on the amount of remuneration that would be incumbent upon him/her in the category of origin;
c) Fill, under the legal terms, different work post in the body or service or in the entity of origin or in other body or service.

4 – In the case provided for in subparagraph c) of the preceding paragraph, the agreement of temporary transfer due to public interest expires with the filling of a new work post.

5 – In the case provided for in subparagraph b) of paragraph 3, the recipient's entity would contribute:

a) In the financing of the social protection system applicable in concrete, with the importance that is legally established for the contribution of the employer entities;
b) Where appropriate, in the administration expenses of civil service health subsystems, under the legal terms applicable.

6 – The exercise of the disciplinary power shall be incumbent upon the recipient's entity, except when the application of a disciplinary sanction that terminates the employment relationship is in question.

7 – The transferee worker's behaviour that constitutes disciplinary infraction has relevance in the scope of the employment relationship of origin, for all legal purposes.

8 – In the case in which the infraction attributed may correspond, in the abstract, to the disciplinary sanction that terminates the employment relationship, the disciplinary power may be delegated expressly to the recipient's entity and the decision of application of a sanction shall be taken by the transferring entity and by the recipient's entity, and the disciplinary procedure that verifies the disciplinary infraction shall comply with the disciplinary procedure of the employment relationship of origin.

Article 243

Temporary transfer due to public interest for a public employer

1 – The agreement of transfer due to public interest for the fulfilment of functions within the scope of a public employer has a maximum term of one year, except when it has been concluded for the performance of a position, or when a body or service are in question, namely temporary, that may not form public employment legal relationships for an indefinite period of time, cases in which their term is indefinite.

2 – The fulfilment of functions in the body or service shall presuppose the formation of a public employment relationship.

3 – The termination of the temporary transfer due to public interest shall entail the expiry of the public employment relationship formed under the terms of the preceding paragraph.

4 – The functions to be fulfilled in a body or service shall correspond to a position or to a category, activity and, when indispensable, academic or professional training area.

5 – When the functions correspond to a management position, the transferee agreement due to public interest shall be preceded by the observance of the recruitment legal requirements and procedures.

Article 244

Special cases of temporary transfer due to public interest

1 – When a worker of a body or service fulfils functions in a trade union central or employers' confederation, or in a private entity with equivalent representativeness in the economic and social sectors, the agreement may predict that he/she continues to be compensated, as well as the corresponding co-participations ensured, by the body or service.

2 – In the case provided for in the preceding paragraph, the maximum number of workers temporarily transferred is of four for each trade union central and of two for each one of other entities.

3 – The temporary transfer system due to public interest, without suspension of the public employment relationship, is applied whenever a worker in public functions, pursuant to the transmission of economic unit, will fulfil functions for an employer outside the scope of application of the present law.

4 – The system provided for in the preceding paragraph shall be applicable to cases in which a public employer should be responsible for the establishment or economic unit with workers with employment relationship subject to the Labour Code, namely in situations of reversion of the concession of public service.

SECTION II

Reassignment of workers in the case of workforce reorganization and streamlining

(Repealed)

SUBSECTION I

Reorganization or streamlining procedure or reassignment of workers

(Repealed)

DIVISION I

General provisions

(Repealed)

Article 245

Reorganization of body or service and workforce streamlining

(Repealed)

Article 246

Voluntary mobility period

(Repealed)

Article 247

Workers under transitional situation

(Repealed)

Article 248

Mobility situations and tenure

(Repealed)

Article 249

Workers under leave situation

(Repealed)

Article 250

Setting of general and abstract criteria of identification of workers universe

(Repealed)

DIVISION II

Legal and procedural steps

(Repealed)

Article 251

Commencement of the procedure

(Repealed)

Article 252

Selection methods

(Repealed)

Article 253

Application of the performance appraisal method

(Repealed)

Article 254

Application of the assessment method of professional competencies

(Repealed)

Article 255

Selection of workers not reassigned

(Repealed)

Article 256

Reassignment

(Repealed)

Article 257

Placement of workers non-reassigned under requalification situation

(Repealed)

SUBSECTION II

Framework of workers under requalification situation

(Repealed)

DIVISION I

General provisions

(Repealed)

Article 258

Requalification procedure phases

(Repealed)

Article 259

Workers covered by the second phase of the requalification procedure

(Repealed)

Article 260

Juridical situation of the worker under requalification

(Repealed)

Article 261

Remuneration of the worker under requalification situation

(Repealed)

Article 262

Rights of workers in the first phase of the requalification procedure

(Repealed)

Article 263

Rights of workers in the second phase of the requalification procedure

(Repealed)

Article 264

Duties of workers under requalification situation

(Repealed)

DIVISION II

Resumption of functions and vicissitudes of the requalification situation

(Repealed)

Article 265

Recruitment of workers under requalification situation

(Repealed)

Article 266

Resumption of functions in a service

(Repealed)

Article 267

Resumption of functions in other legal entities of public law and private social solidarity institutions

1 – The workers under requalification situation may resume functions in public corporations and regional, inter-municipal and municipal corporate sectors, independent administrative entities, regulatory entities, public associations, public foundations of public and private law, other legal entities of autonomous administration and other public entities by way of temporary transfer due to public interest.

2 – The resumption of functions under the terms of the preceding paragraph takes place as per general terms, and shall not require agreement of the member of the Government in charge of public administration area.

3 – The workers under requalification situation may resume functions, under the terms of the preceding paragraphs, in private social solidarity institutions that conclude protocol for the purpose with the managing entity of the requalification system.

Article 268

Suspension of the requalification situation

(Repealed)

Article 269

Termination of the requalification situation

(Repealed)

DIVISION III

Workers management under requalification situation

(Repealed)

Article 270

Assignment

(Repealed)

Article 271

Managing entity of the requalification system

(Repealed)

Article 272

Transmission of information

(Repealed)

Article 273

Budget transfers

(Repealed)

Article 274

Application to workers in public corporation entities

(Repealed)

Article 275

Staff of abolished services under unpaid leave situation

(Repealed)

SECTION III

Other situations of reduction of activity or suspension of the public employment relationship

SUBSECTION I

General provisions

Article 276

Facts determining the reduction or suspension

1 – The reduction of the normal work period or the suspension of the public employment relationship may be justified in the temporary impossibility, respectively, partial or total, of the performance of work, for a fact relating to the worker, and in the agreement of the parties.

2 – The conclusion of a pre-retirement agreement, between the worker and the public employer also allows for the reduction of the normal work period or the suspension of the public employment relationship.

Article 277

Effects of the reduction and suspension

1 – During the reduction or suspension, the rights, duties and guarantees of the parties are maintained, in so far as they do not presuppose effective and actual performance of work.

2 – The time of reduction or suspension is calculated for seniority purposes.

3 – The reduction or suspension shall not interrupt the lapse of the time limit for expiry purposes, nor shall not prevent from any of the parties terminate the contract under the general terms.

SUBSECTION II

Suspension of the public employment relationship for fact relating to the worker

Article 278

Determining facts

1 – It determines the suspension of the public employment relationship the temporary impediment for fact not imputable to the worker that is extended for more than one month, namely illness.

2 – The public employment relationship is deemed suspended, even before the time limit of one month has been elapsed, as from the moment in which it is predictable that the impediment shall have term higher than that time limit.

3 – The public employment relationship shall be terminated at the moment in which becomes certain that the impediment is definitive.

4 – The temporary impediment for a fact attributable to the worker shall entail the suspension of the public employment relationship in cases provided for in the law.

Article 279

Return of the worker

On the day following to that of the termination of the impediment, the worker shall present himself/herself to the public employer to resume activity, under penalty of incurring in unjustified absences.

SUBSECTION III

Leaves

Article 280

Grant and refusal of leave

1 – The public employer may grant the worker, at his/her request, unpaid leave.

2 – Without prejudice to provisions set out in special legislation or in collective labour regulation instrument, the worker is entitled to long-term unpaid leaves, for attendance at training courses provided under the responsibility of a teaching or vocational training institution or within the scope of a specific programme passed by a competent authority and implemented under its pedagogical control or attendance at courses provided by teaching establishments.

3 – The public employer may refuse the grant of the leave provided for in the preceding paragraph in the following situations:

a) when to the worker has been provided appropriate vocational training or leave for the same purpose, in the last 24 months;
b) When the seniority of the worker in the body or service is lower than three years;
c) When the worker has not requested the leave with a minimum 90 days in advance in relation to the date of its commencement;
d) In addition to situations referred to in the preceding subparagraphs, if it deals with workers' holders of management positions who head multidisciplinary teams or integrated in careers or categories of grade 3 of functional complexity, when it is not possible the replacement of same during the leave period, without serious prejudice to the functioning of the body or service.

4 – For the purposes of provisions set out in paragraph 2, the leave higher than 60 days shall be deemed a long term leave.

Article 281

Effects

1 – The grant of the leave shall entail the suspension of the employment relationship, with the effects provided for in paragraphs 1 and 3 of article 277.

2 – The period of the leave time shall not be taken into consideration for seniority purposes, without prejudice to provisions set out in the following paragraph.

3 – In the leaves provided for accompaniment of the spouse placed abroad, as well as for

the fulfilment of functions in international organizations and in other leaves based on circumstances of public interest, the worker is entitled to the calculation of time for seniority purposes and may continue to make deductions for ADSE or other health subsystem which benefits, based on the remuneration received on the date of commencement of the leave.

4 – In the leaves of term lower than one year, in those provided for the accompaniment of the spouse placed abroad, as well as for the fulfilment of functions in international organizations and in other leaves based on circumstances of public interest, the worker is entitled to fill a work post in the body or service when the leave terminates.

5 – In other leaves, the worker who envisages to return to the service and whose work post is filled, shall wait for the estimate in the workforce list, of a work post not filled, and may apply for an open competition procedure for other body or service for which meets the requirements demanded.

6 – The provisions set out in the preceding paragraph shall be applicable to early return of the worker under enjoyment of unpaid leave.

Article 282

Unpaid leave for accompaniment of the spouse placed abroad

1 – The worker is entitled to an unpaid leave for accompaniment of the respective spouse, when this one, has or not the capacity of worker in public functions, is placed abroad for a period of time higher than 90 days or indefinite, in defence missions or representation of interests of the country or in international organizations of which Portugal is a member.

2 – The leave is granted by the competent manager, upon request of the interested person, duly grounded.

3 – The provisions set out in paragraphs 3 and 4 of article 281 shall be applicable to the leave provided for in the present subsection, if it has been granted for a period lower than two years, and the provisions set out in paragraph 5 of the same article, if it has been granted for a period equal or higher than that one.

4 – The leave has the same term of that of the placement of the spouse abroad, and may be commenced on a subsequent date to that of the commencement of functions of the spouse abroad, provided that the interested person alleges convenience in this respect or the return be anticipated at the request of the worker.

5 – Once the placement of the spouse abroad has been ended, the worker may request the top manager of the respective service the return to activity, within the time limit of 90 days, calculated as from the date of the term of the placement situation of that one abroad.

6 – In the case of the worker shall not request the return to activity under the terms of the preceding paragraph, his/her willingness shall be presumed to terminate the public employment relationship for termination or resignation at the worker's request.

Article 283

Unpaid leave for the fulfilment of functions in international organizations

1 – The unpaid leave for the fulfilment of functions in international organizations may be granted by order of members of the Government responsible for foreign affairs area and for the service

to which belongs the worker taking, as the case may be, one of the following forms:

a) Leave for the fulfilment of functions of a precarious or experimental nature, with a view to a future integration in the respective organization;
b) Leave for the fulfilment of functions in an establishment plan of international organization.

2 – The leave provided for in subparagraph a) of the preceding paragraph has the term of the fulfilment of functions of a precarious or experimental nature for which has been granted.

3 – The leave provided for in subparagraph b) of paragraph 1 shall be granted for the period of fulfilment of functions.

4 – The fulfilment of functions under the terms of the present article shall entail that the interested person adduces evidence, in the request to be submitted for the grant of leave or for the return, of his/her situation with regard to the international organization, by way of supporting document to be issued by the same.

SUBSECTION IV

Pre-retirement

Article 284

Pre-retirement agreement

1 – Pre-retirement is deemed the situation of reduction or suspension of the performance of work in which the worker with equal age or higher than 55 years maintains the right to receive from the public employer a monthly cash benefit until the date of verification of any situations provided for in paragraph 1 of article 287.

2 – The pre-retirement situation is formed by agreement between the public employer and the worker and depends upon previous authorization of members of the Government responsible for finance and public administration areas.

3 – The pre-retirement agreement shall set out the following indications:
a) Date of commencement of the pre-retirement situation;
b) Amount of the pre-retirement benefit;
c) Form of working time organization, in the case of reduction of the performance of work.

4 – The public employer shall forward the pre-retirement agreement to social security or, as appropriate, to the *Caixa Geral de Aposentações*, I.P., - Workers Special Pension Scheme, P. I., along with the pay slip related to the month of its entry into force.

Article 285

Worker's rights

1 – The worker under pre-retirement situation has the rights set out in the agreement concluded with the public employer, without prejudice to provisions set out in the following articles.

2 – The worker under pre-retirement situation may carry out other paid professional activity, as per the terms provided for in articles 19 to 24.

Article 286

Pre-retirement pay

1 – In the pre-retirement situation that corresponds to the reduction of the performance of work, the pre-retirement pay shall be set on the basis of the last remuneration received by the worker, in proportion to the weekly normal work period agreed.

2 – The pay referred to in the preceding paragraph shall be annually updated by a percentage equal to that of the remuneration increase of which the worker would benefit if he/she were in full fulfilment of functions.

3 – In the case of failure to pre-retirement pay in due time, if the arrears are extended for more than 30 days, the worker is entitled to resume full fulfilment of functions, without prejudice to his/her seniority, or to terminate the contract, with right to indemnity provided for in paragraphs 2 and 3 of the following article.

4 –The rules for the setting of the pay to be granted in the pre-retirement situation that corresponds to the suspension of the performance of work are determined by regulatory decree.

Article 287

Termination of the pre-retirement situation

1 – The pre-retirement situation is terminated:

a) With the change to pensioner situation, for age limit or disability;
b) With the return to the full fulfilment of functions, by agreement between the worker and the public employer or under the terms of the preceding article;
c) With the termination of the contract.

2 – Whenever the termination of the pre-retirement situation shall result from the termination of the contract, that would confer to the worker the right to an indemnity or remuneration, in the case if he/she were in the full fulfilment of functions, that one is entitled to an indemnity corresponding to the amount of pre-retirement pay until the legal retirement age.

3 – The indemnity referred to in the preceding paragraph shall be based on the last pre-retirement pay due on the date of termination of the contract.

4 – The worker under a pre-retirement situation shall be deemed applicant for old age retirement as soon as he/she completes the legal age, save if until that date the termination of the pre-retirement situation shall have occurred.

CHAPTER IX

Termination of the employment relationship

SECTION I

General provisions

Article 288

Prohibition of dismissal or dismissal without fair cause

The dismissal or the dismissal without fair cause or for political or ideological reasons shall be

prohibited.

Article 289

Forms of termination of the public employment relationship

1 – Without prejudice to other forms of termination, the following are common causes for termination of the employment relationship:

a) Expiry;
b) Agreement;
c) Termination for disciplinary reasons;
d) Termination by the worker with prior notice;
e) Termination by the worker with just cause.

2 – (Repealed)

3 – It is a specific cause of termination of the tenure, the termination by the worker or employer.

4 – In the absence of a legal provision to the contrary, the tenure may be terminated within a minimum 30 days in advance.

Article 290

Rights and duties of the public employer and the worker resulting from the termination of the employment relationship

1 – Once the employment relationship has been terminated, the public employer shall forward to the worker a labour certificate, indicating the dates of entry and exit, as well as the position or positions performed.

2 – The certificate shall not contain any other references, save worker's request in this respect.

3 – Besides the labour certificate, the public employer is requested to forward to the worker other documents destined to official purposes that for the former shall be issued and the latter so requests, namely those provided for in the social protection legislation.

4 – Once the employment relationship has been terminated, the worker shall give back immediately to the public employer the working instruments and any other objects that belong to this one, under penalty of incurring in civil liability for damages caused.

5 – Once the tenure has been terminated, the worker returns to the juridical and functional situation of which was holder, when formed and consolidated for indefinite period of time, or terminates the public employment relationship, and the pay of an indemnity shall take place when provided for in special law.

SECTION II

Common causes of termination

SUBSECTION I

Expiry of the public employment relationship

Article 291

Expiry situations

The public employment relationship expires, namely in the following cases:

a) With the verification of its term;
b) In the case of absolute and definitive supervening impossibility of the worker to perform his/her work;
c) With the worker's retirement, for old age or disability, or when the worker completes 70 years of age, without prejudice to article 294-A.

Article 292

Retirement for old age or disability

1 – The public employment relationship expires for worker's retirement, for old age or disability, or when the worker completes 70 years of age, without prejudice to article 294-A.

2 – The expiry of the employment relationship is verified after 30 days have been elapsed on the awareness of both parties of the worker's retirement for old age or disability.

Article 293

Expiry of the fixed term employment contract in public functions

1 – The fixed term employment contract in public functions expires at the end of the time limit stipulated, provided that the public employer or the worker shall not communicate in writing, until 30 days before the time limit expire, the willingness to renew it.

2 – Should the public employer communicate the willingness to renew the contract under the terms of the preceding paragraph, worker's agreement shall be presumed, if, within the time limit of seven working days, this one shall not manifest in writing the willingness to the contrary.

3 – Except when the willingness of the worker lapses, the expiry of the fixed term contract confers to the worker the right to a pay, calculated as per the terms provided for in the Labour Code for fixed term contracts.

Article 294

Expiry of the unfixed term employment contract in public functions

1 – The unfixed term employment contract in public functions expires when, if the occurrence of the term is expected, the public employer communicates the worker the date of termination of the contract, with a minimum 7, 30 or 60 days in advance, in accordance with the contract

has lasted up to 6 months, from 6 months until 2 years or for a higher period, respectively.

2 – If it deals with a situation provided for in subparagraph i) of paragraph 1 of article 57, that takes place to the contracting of several workers, the communication referred to in the preceding paragraph shall be made, successively, as from the verification of the gradual reduction of the respective filling, with the approximation of the completion of the project for the development of which have been contracted.

3 – The absence of communication referred to in paragraph 1 shall entail for the public employer the payment of the remuneration corresponding to the missing period of prior notice.

4 – The expiry of the contract confers the worker the right to a pay calculated under the terms provided for in the Labour Code for unfixed term contracts.

Article 294 - A

Performance of public functions by retired worker on reaching the age of 70

1 - In cases of exceptional and duly justified public interest, and without prejudice to the other conditions and requirements laid down in articles 78 and 79 of the Retirement Statute, passed by Decree-Law No 498/72, of 9 December, in the current wording, the worker who hold a public employment relationship regulated by this law and who wish to continue to perform the same public functions after retirement on reaching the age of 70, must expressly state that wish in writing by means of a request addressed to the respective public employer at least six months before completing that age.

2 – The authorisation for the performance of functions under the terms of the preceding paragraph shall be granted in accordance with the provisions of article 78 of the Retirement Statute.

3 - If the request is authorised, the public functions shall be exercised by the pensioner or retired person through the appropriate public employment relationship modality, under the following terms:

a) Fixed-term employment contract in public functions or transitional appointment, when the performance of functions referred to in articles 7 and 8, respectively, is concerned;
b) Tenure, when this is the public employment relationship modality foreseen for the exercise of the position, namely management position, under the terms of article 9.

4 – The public employment bonds referred to in subparagraphs a) and b) of the preceding paragraph shall be subject to the regime defined in this law for the respective public employment modality, with the necessary adaptations and the following specificities:

a) The employment bonds are in force for a period of six months, renewable for equal and successive periods, up to a maximum limit of five years, without prejudice, in the case of the tenure, to the maximum period set for the respective tenure and renewal;
b) The expiry of the contract or appointment and termination of the tenure shall be subject to a 30 or 15 days' prior notice, depending on whether the initiative is taken by the employer or the worker;
c) The expiry of the contract and of the appointment and the termination of the tenure shall not determine the payment of any remuneration to the worker.

5 - The provisions of the preceding paragraphs may apply, with the necessary adaptations, to the situations of appointment of a pensioner or retired person with more than 70 years, in a tenure relationship, for the performance of a management position, in cases where the

Management Staff Statute of central, regional and local administration of the State services and bodies, approved by Law No 2/2004 of 15 January, in its current wording, is not applicable or the designation may operate, under the terms of that Statute, without the need of a competition procedure.

6 - The provisions of the preceding numbers do not prejudice the application of the regime provided for in the Retirement Statute, nor the application of general or special norms that establish other specific causes for termination of the public employment bond.

7 – The authorisations granted under the provisions of this article shall be published, by extract, in the 2nd series of the Official Gazette, identifying the respective grounds.

SUBSECTION II

Termination by agreement

Article 295

Termination agreement of the public employment relationship

1 – The public employment relationship may terminate by agreement between the worker and the public employer, once the following requirements are met:

a) Once the obtaining of efficiency gains has been proven and the permanent reduction of expense for the public employer, namely for the demonstration that the worker shall not require substitution;
b) Demonstration of budget availability, in the termination year, to bear the expense inherent to the pay to be granted to the worker.

2 – The conclusion of the termination agreement under the terms of the preceding paragraph shall depend upon previous authorization of members of the Government responsible for finance and public administration areas and the member of the Government who fulfils management or supervision powers over the public employer.

3 – The members of the Government responsible for finance and public administration areas may, previously to the authorization provided for in the preceding paragraph, require to the requalification managing entity the assessment of the possibility of placement of the worker in a work post compatible with his/her category, experience and professional qualifications, in other Public Administration body or service.

4 – When the worker is integrated in the Auxiliary Staff career or Administrative Staff career, the authorization provided for in paragraph 2 shall not be required, once the requirements set out in paragraph 1 are met.

Article 296

Pay for termination by agreement

1 - The termination's agreement shall discriminate the amounts paid, on an offsetting basis for termination of the employment relationship and, where appropriate, those resulting from credits already overdue or that have fallen due, by virtue of that termination.

2 – Save special system, the pay to be granted to the worker within the scope of the

termination's agreement of the employment relationship corresponds, at most, to 20 days of basic remuneration for each full year of seniority and is determined as follows:

a) The daily amount of the basic remuneration is that one resulting from the division by 30 of the monthly basic remuneration received by the worker;
b) In the case of fraction of the year, the amount of the pay shall be proportionally calculated;
c) The global amount of the pay shall not be higher than 100 times the RMMG – Minimum Monthly Guaranteed Wage, without prejudice to provisions set out in the following paragraphs;
d) The global amount of the pay shall not be higher than the amount of the basic remunerations to be received by the worker up to the legal retirement age.

3 – In the situation in which the worker meets the requirements to accede to the legal mechanism of early retirement, within the scope of the convergent social protection system or under the flexibility or anticipation system of the old age pension in the social security general system, the agreement of termination needs demonstration of effective reduction of expense and previous authorization of the member of the Government responsible for finance area.

4 – The termination of the public employment relationship by agreement shall prevent the worker from forming an employment relationship in public functions, in any form, with the bodies or services of the direct and indirect state administration, regional administration and local authority administration, including the respective public corporations entities, and with other State bodies, for the period corresponding to the quadruple of pay months received, calculated with approximation by excess.

5 – The members of the Government responsible for finance and public administration areas and the member of the Government who fulfils management or supervision powers may, by order, regulate sectoral programmes of workforce reduction, by recourse to the conclusion of agreement of termination of the contract, establishing the requirements and specific conditions to be applied to those programmes, which shall be object of previous negotiation with trade union organizations representatives of workers.

SUBSECTION III

Termination for disciplinary grounds

Article 297

Legal ground for dismissal or dismissal for disciplinary reasons

1 – The public employment relationship may terminate in the case of disciplinary infraction that renders its maintenance unfeasible.

2 – The termination of the employment relationship provided for in the preceding paragraph operates by dismissal, respectively in the forms of employment contract in public functions and appointment.

3 – The following behaviours of the worker shall give rise to a disciplinary infraction that makes the maintenance of the employment relationship unfeasible, namely, when:

a) Aggresses, insults, slanders or seriously disrespects hierarchical superior, colleague, subordinate or a third party, in the service or in places of the service;

b) Commits acts of serious insubordination or indiscipline or urges its practice;
c) In the fulfilment of his/her functions, practises act manifestly offensive of institutions and principles enshrined in the Constitution;
d) Practises or attempts to practise any act that damages or hampers the superior interests of the State in matters pertaining to international relations;
e) Practices again the facts referred to in subparagraphs c), h) and i) of article186;
f) Maliciously and intentionally reports disciplinary infraction supposedly committed by other worker;
g) Within the same calendar year, has five followed absences or ten interpolated absences without justification;
h) Commits reiterated breach of the duty of zeal, manifested in an enquiry procedure initiated after the obtaining of two consecutive negative performance appraisals;
i) Discloses information that, under the legal terms, shall not be disclosed;
j) As a result of the function fulfilled, requests or accepts, directly or indirectly, gifts, donations, gratuities, bonuses, share in profit or other property advantages, even though without the purpose of speeding up or delaying any service or procedure;
k) Co-participates in an offer or negotiation of public employment;
l) Possesses, in an illegitimate way, or misappropriates of public funds;
m) Participates or has interest, directly or through an intermediary, in any contract concluded or to be concluded by any service or body;
n) With intention of obtaining for himself/herself or for a third party, unlawful economic benefit, fails in relation to functional duties, not promoting timely the appropriate procedures, or undermines, in a legal business or for mere material act, namely by destruction, tempering or loss of documents or by data vitiation for computerized processing, property interests that, in whole or in part, shall be incumbent to administer, monitor defend or carry out by virtue of his/her functions;
o) Authorizes the fulfilment of any paid activity in the forms that are forbidden to workers who placed under requalification procedure, are enjoying a special leave.

4 – Becoming the maintenance unfeasible of the functional relationship, the dismissal penalties and of dismissal for fact imputable to the worker are still applicable to workers who, under requalification situation, fulfil any paid activity outside the cases provided for in the law.

Article 298

Procedure for dismissal for contractual staff or dismissal for appointed staff

The application of the dismissal sanction or dismissal by the public employer shall be compulsorily preceded by disciplinary procedure provided for in the present law.

Article 299

Judicial challenge of the dismissal or resignation

1 – The challenge action of dismissal or resignation shall be proposed within the time limit of one year over the date of taking effects of the employment relationship termination.

2 – The interlocutory injunction that aims the suspension of the dismissal shall be requested within the time limit of 30 days calculated as from the date of taking effects of the employment relationship termination.

Article 300

Invalidity of the dismissal or resignation

1 – Once the sanction of disciplinary dismissal or resignation have been annulled or declared null, the body or service shall be convicted to:

a) Indemnify the worker for all property and personal damages caused;
b) Re-establish the current hypothetical legal-functional situation of the worker.

2 – The worker is also entitled to receive the remuneration that no longer has received since the date of taking effects of the act of application of the sanction up to the final judicial decision.

3 – The following amounts are deducted to the value determined under the terms of the preceding paragraph:

a) The amounts that the worker has demonstrably obtained with the termination of the public employment relationship and that should not receive if the sanction were not applied;
b) The amount of the unemployment allowance eventually earned by the worker, and the body or service shall deliver this amount to the social security;
c) The amount of the remuneration relating to the period elapsed since the date of taking of effects of the termination of the employment relationship until 30 days before the date of its judicial challenge, when this one has not taken place in the 30 days subsequent to that date of taking effects.

Article 301

Indemnity as a substitution of the situation reconstitution

1 – Alternatively to the re-formation of his/her hypothetical current juridical and functional situation, the worker may choose, until the date of the jurisdictional decision, for receiving the indemnity provided for in the following paragraph.

2 – The indemnity provided for in the preceding paragraph shall be set by the court, between 15 and 45 days for each full year or fraction of fulfilment of functions, bearing in mind the value of the pay and the grade of unlawfulness, and with the minimum value corresponding to three monthly basic remunerations.

3 – When the sanction is the termination of the tenure, to the value provided for in the preceding paragraph shall be added a monthly basic remuneration for each full month, or respective proportion in the case of fraction of month, that were missing for the term of the tenure, with a minimum corresponding to three monthly basic remunerations.

4 – The time elapsed since the date of taking effects of the sanction until the final jurisdictional decision shall be deemed as fulfilment of public functions, for the purposes of provisions set out in the preceding paragraphs.

5 – Once the choice referred to in paragraph a) is carried out, the court shall convict the body or service accordingly.

Article 302

Special rules on fixed-term contracts

1 – The general rules of termination of the contract, with changes set out in the following paragraph are applied to the fixed-term contract.

2 – If the dismissal is declared unlawful, the public employer shall be convicted:

a) In the pay of an indemnity for damages caused, the worker shall not receive a pay lower than that amount corresponding to the value of remunerations that no longer has earned since the date of the dismissal up to the fixed or unfixed term of the contract, or up to the final court decision, if that term occurs subsequently;
b) In the worker's reintegration, without prejudice to his/her category, in the case of the term occurs after the final court decision.

SUBSECTION IV

Termination by the worker with prior notice

Article 303

Forms of termination

The termination of the public employment relationship on worker's initiative with prior notice shall be made by cancellation or resignation at the request of the worker, according to the worker is holder of an employment contract in public functions or of an appointment employment relationship, respectively.

Article 304

Cancellation of an employment contract in public functions

1 – The worker may cancel the contract irrespective of just cause, by way of written communication forwarded to the public employer with a minimum of 30 or 60 days in advance, according to he/she has respectively, until two years or more than two years of seniority in the body or service.

2 – If it is a fixed-term contract, the worker that is envisaged to terminate the employment relationship before the lapse of the time limit agreed shall inform the public employer with a 30 day in advance, if the contract has term equal or higher than six months, or of 15 days, if it is of lower term.

3 – In the case of unfixed term contract, for the calculation of the time limit of prior notice referred to in the preceding paragraph the time of actual and effective term of the contract shall be taken into consideration.

Article 305

Resignation at the request of the worker

The definitive appointment terminates by worker's resignation, which takes effects on the thirtieth day calculated as from the date of submission of the respective written request, except

when the public employer and the worker unless agree otherwise.

Article 306

Failure to comply with time limits of prior notice

If the worker shall not comply with, wholly or partially, the time limits of prior notice established in the preceding paragraphs, shall be obliged to pay to the public employer an indemnity of equal value to the basic remuneration corresponding to the period of the missing notice, without prejudice to civil liability for damages eventually caused.

SUBSECTION V

Termination by the worker with just cause

Article 307

Just cause of termination of the public employment relationship

1 – If the just cause shall occur, the worker may terminate immediately the public employment relationship.

2 – The following behaviours of the public employer constitute just cause of termination of the employment relationship by the worker, namely:

a) Culpable failure to timely pay the remuneration;
b) Culpable breach of legal or conventional worker's guarantees;
c) Application of unlawful sanction;
d) Culpable failure of safety, hygiene and health conditions at work;
e) Culpable injury of serious property interests of the worker;
f) Offences to physical or moral integrity, freedom, honour or dignity of the worker, punishable by law, practiced by the public employer or his/her legitimate representative.

3 – The following facts constitute also just cause of termination of the employment relationship by the worker:

a) Need to comply with legal obligations incompatible with the continuation of the employment relationship;
b) Substantial and lasting change of working conditions in the legitimate exercise of public employer's powers;
c) Non-culpable failure to timely pay the remuneration.

4 – For appraisal of the just cause the injury grade of the worker's interests and other circumstances that show to be relevant shall be taken into consideration.

Article 308

Procedure

1 – The declaration of termination of the employment relationship shall be made in writing, with brief indication of facts that justify it, within the 30 days subsequent to the awareness of these facts.

2 – If the justification of the termination is that which is set out in subparagraph a) of paragraph 3 of the preceding article, the worker shall notify the public employer as soon as possible.

Article 309

Indemnity due to the worker

1 – The termination of the employment relationship based on facts provided for in paragraph 2 of article 307 gives the worker the right to an indemnity, to be determined between 30 and 60 days of basic remuneration earned by the worker for each full year of seniority in the fulfilment of public functions, but never shall be lower than three months of basic remuneration.

2 – In the case of fraction of the seniority year, the value of the indemnity shall be proportionally calculated.

3 – In the case of term contract, the indemnity provided for in the preceding paragraphs shall not be lower than the amount corresponding to remunerations that are not yet due.

Article 310

Challenge of the declaration of termination of the employment relationship

1 – The unlawfulness of the termination of the employment relationship may be declared judicially in an action initiated by the public employer within the time limit of one year, calculated as from the date of the declaration.

2 – In the action in which the unlawfulness of the termination of the employment relationship is appraised only the facts set out in the communication referred to in paragraph 1 of article 308 are taken into consideration to justify such facts.

3 – In the case of the termination of the employment relationship having been challenged, on the basis of unlawfulness of the procedure provided for in paragraph 1 of article 308, the worker may correct the vice until the term of the time limit to challenge, however this system shall not be applied more than once.

4 – If the just cause of termination of the employment relationship is not proven, the public employer is entitled to an indemnity for damages caused, not lower than the amount calculated as per the terms of article 306.

SECTION III

Termination of the employment contract in public functions following a services reorganization procedure and workforce streamlining

(Repealed)

Article 311

Procedure

(Repealed)

Article 312

Pay for termination of the contract

(Repealed)

Article 313

Unlawfulness of the termination of the employment contract in public functions

(Repealed)

PART III

Collective right

TITLE I

Workers' collective representation structures

CHAPTER I

General provisions

Article 314

Collective representation of workers in public functions

1 – The workers in public functions are entitled to set up collective representation structures for the defence of their rights and interests, namely workers' committees and trade union associations, without prejudice to restrictions established by special law.

2 – The Labour Code system, with due adaptations and specificities set out in the present law shall be applicable to the collective representation structures of workers in public functions.

Article 315

Time credit of workers' representatives

The workers in public functions elected for collective representation structures of workers benefit from time credit, under the terms provided for in the Labour Code and in the present law.

Article 316

Absences

1 – The absences of workers elected for the collective representation structures in the fulfilment of their functions and that exceed the time credit are deemed justified absences and are taken into account, save for the purpose of remuneration, as actual and effective length of service.

2 – With regard to trade union representatives, only are deemed justified, in addition to those which correspond to the enjoyment of the time credit, the absences motivated for the practice

of acts absolutely essential and unpostponable in the fulfilment of their functions, which are taken into account, save for the effect of remuneration, as actual and effective length of service.

3 – The absences referred to in the preceding paragraphs are communicated, by the worker or collective representation structure in which is integrated, in writing, with one day in advance, with reference to the dates and to the number of days of which the respective workers need for the fulfilment of their functions, or, in the case of impossibility of prediction, within the 48 hours immediate to the first day of absence.

4 – The inobservance of provisions set out in the preceding paragraph renders the absences unjustified.

Article 317

Protection in the case of disciplinary procedure, dismissal for contractual staff or dismissal for appointed staff

1 – The preventive suspension of the worker elected for collective representation structures shall not prevent that the same may have access to places and activities that are included in the normal fulfilment of those functions.

2 – In the pending procedure for the determination of the disciplinary, civil or criminal liability, based on the abusive exercise of rights in the capacity of member of a collective representation structure of workers, the provisions set out in the preceding paragraph shall be applied to the targeted worker.

3 – The dismissal of contracted worker or dismissal of appointed worker applicant for governing bodies of trade union associations, as well as of that who fulfils or has fulfilled functions in the same governing bodies for less than three years, shall be presumed made without just cause or justifying reason.

4 – In the case of the contracted worker dismissed or appointed worker dismissed being a trade union representative or member of the workers' committees, if a protective measure has been lodged of dismissal suspension, this one shall only not be determined, if the court concludes for the existence of serious probability of verification of just cause or justifying reason invoked.

5 – The actions that have as object disputes related to dismissal of workers referred to in the preceding paragraph have urgent nature.

6 – In the case of unlawfulness of the dismissal of the worker member of the collective representation structure, this one has the right to choose between the reintegration in the body or service and an indemnity calculated under the terms provided for in the present law or established by collective labour regulation instrument, never lower than the basic remuneration corresponding to six months.

Article 318

Protection in the case of mobility

1 – The workers elected for collective representation structures, as well as in the situation of applicants, up to two years after the end of the respective term of office, shall not be changed of workplace without their express agreement and without hearing of the structure to which they belong.

2 – The provisions set out in the preceding paragraph shall not be applicable when the change of workplace result from the change of premises of the body or service or arise from legal rules applicable to their workers.

Article 319

Classified information

1 – The member of the collective representation structure of workers shall not disclose to workers or to third parties' information that has received, within the scope of the right of information or consultation, and that is of restricted access under the terms of provisions set out in the access system to administrative documents or to special legal text.

2 – The duty of confidentiality shall be maintained after the termination of the term of office of the member of the collective representation structure of workers.

CHAPTER II

Workers' committees

SECTION I

General provisions on workers' committees

Article 320

General principles related to committees, subcommittees and coordinating committees

1 – The workers are entitled to set up, in each public employer, a workers committee, for the defence of their interests and for the fulfilment of the rights provided for in the Constitution and in the law.

2 – In public employers with peripheral establishments or deconcentrated organic units' workers' subcommittees may be set up.

3 – Coordinating committees may be set up for articulation of activities of workers' committees set up in different public employers of the same ministry or of several ministries that pursue duties of a similar nature, as well as for the exercise of other rights established in the law.

Article 321

Number of members of the workers' committees, coordinating committee or subcommittee

1 – The number of members of the workers' committees shall not exceed the following:

a) In public employers with less than 50 workers, two;
b) In public employers with 50 to 200 workers, three;
c) In public employers with 201 to 500 workers, three to five;
d) In public employers with 501 to 1, 000 workers, five to seven;
e) In public employers with more than 1, 000 workers, seven to eleven.

2 – The number of members of the workers' subcommittees shall not exceed the following:

a) In the establishments or organic units with 50 to 200 workers, three;
b) In establishments or organic units with more than 200 workers, five.

3 – In establishments or organic units with less than 50 workers, the function of the workers' subcommittee shall be ensured by only one member.

4 – The number of the coordinating committee members shall neither exceed the number of workers' committees that the same coordinates, nor the maximum of 11 members.

Article 322

Workers' meeting at the workplace convened by the workers' committee

The holding of the workers 'meetings at the workplace, convened by the workers' committee, as well as the respective procedure, comply with provisions set out in the Labour Code.

Article 323

Time credit of committees' members

1 – For the performance of his/her activity, the member of the following structures is entitled to the following monthly time credit:

a) Workers' subcommittees, 8 hours;
b) Workers' committees, 25 hours;
c) Coordinating committees, 20 hours.

2 – In bodies or services with less than 50 workers, the time credit referred to in the preceding paragraph shall be reduced by half.

3 – In bodies or services with more than 1, 000 workers, the workers' committee may decide unanimously, redistribute by its members a global amount corresponding to the sum of time credits of all of them, with the individual limit of 40 monthly hours.

4 – The members of the structures referred to in paragraph 1 are obliged to the performance of work under normal conditions, in addition to the limit therein established, and safeguarded the provisions set out in paragraphs 2 and 3.

5 – There is no room for the accumulation of time credit for the fact of the worker belongs to more than one of the structures referred to in paragraph 1.

SECTION II

Workers' committees' rights

SUBSECTION I

General provisions

Article 324

Workers' and subcommittees rights

1 – The workers' committee is entitled to:

a) Receive all information needed to the carrying out of its activity;
b) Exercise the management control in the respective public employers;
c) Participate in the procedures related to workers, within the scope of reorganization procedures of bodies or services;
d) Participate in the drawing up of labour legislation, directly or through the respective coordinating committees.

2 – The workers' subcommittees may exercise these rights, under the terms provided for in the Labour Code.

Article 325

Meetings of the workers' committee with the top manager or the executive board of the body or service

1 – The workers' committee is entitled to meet periodically with the top manager of the service or the executive board of the public employer for discussion and analysis of issues related to the exercise of its rights, a meeting shall be held, at least, every month.

2 – Minutes from the meeting referred to in the preceding paragraph shall be drawn up by the body or service, and signed by all persons attending it.

3 – The provisions set out in the preceding paragraphs shall be also applicable to workers' subcommittees, in relation to managers of the respective peripheral establishments or deconcentrated organic units.

SUBSECTION II

Information and consultation

Article 326

Content of the right to information

The workers' committee has the right to information on:

a) Activity plan and report;
b) Budget;
c) Human resources management, according to workforce lists;
d) Accountability, including balance sheets, managerial account and management reports;
e) Reorganization projects of the body or service.

Article 327

Obligation of a prior opinion

Without prejudice to compulsory opinions provided for in other legal texts, namely in matters pertaining to the social report and the disciplinary statute, the following acts of the public employer shall be compulsorily preceded by a written opinion of the workers' committee:

a) Regulation on the use on technological equipment for remote surveillance in the workplace;
b) Processing of biometric data;

c) Drawing up of internal regulations of the body or service;
d) Definition and organization of work schedules applicable to all or part of the workers of the body or service;
e) Drawing up of the workers' vacation map of the body or service;
f) Any measures of which results a substantial reduction of the number of workers of the body or service or substantial worsening of his/her working conditions and, still, the decisions that might trigger substantial changes in the work organization plan or of contracts.

SUBSECTION III

Management control of the public employer

Article 328

Purpose and content of the management control

1 – The management control aims to promote a responsible commitment of workers in the public employer's life.

2 – In the exercise of the right of management control, the workers' committee may:

a) Assess and give an opinion on the budgets of the body or service and respective changes, as well as follow up the respective implementation;
b) Promote a suitable use of technical, human and financial resources;
c) Take, among governing bodies and workers, measures that may contribute to improving public employer's activity, namely in the technical equipment and administrative simplification areas;
d) Put forward to the competent bodies of the public employer suggestions, recommendations or criticisms intended to the initial qualification and continuous training of workers and, in general, the improvement of life quality at work and safety and health conditions;
e) Defend, within the governing and supervisory bodies of the public employer and competent authorities, the workers' legitimate interests.

Article 329

Limits to the management control

1 – The management control in public employers shall not be exercised in matters subject to the secrecy system provided for in the law.

2 – The management control in public employers shall not be exercised still in relation to the following activities:

a) National defence;
b) External representation of the State;
c) Security and Intelligence Service;
d) Criminal investigation;
e) Public Security in public spaces and in institutional services namely prisons and courts;
f) Inspection.

3 – The activities involving by direct or delegated via, competencies of the sovereignty bodies, as well as those of the legislative assemblies of the autonomous regions and regional governments are also excluded from the management control.

4 – The limits set out in this article are also applicable to the coordinating committees.

SECTION III

Formation and termination of the workers' committee

Article 330

General provision

The formation, passage of statutes and election of the workers' committee complies with due adaptations the provisions set out in the Labour Code, with the specialities included in the present section.

Article 331

Registration

1 – The workers' committees and subcommittees are registered in the ministry responsible for public administration area.

2 – For the purposes of provisions set out in the preceding paragraph, the electoral committee shall within the time limit of 15 days, calculated as from the date of determination of electoral results, request within the ministry responsible for public administration area the setting up registration of the workers' committee and of statutes or their changes, joining the statutes approved or changed, as well as certified copies of minutes of the electoral committee and the polling stations, accompanied by registration documents of voters.

3 – The electoral committee shall, within the time limit of 15 days, calculated as from the date of establishment of results, request within the ministry responsible for public administration area the registration of the election of the members of the workers' committee and workers' subcommittees, joining certified copies of the candidate lists, as well as the minutes of the electoral committee and polling stations, accompanied by registration documents of voters.

4 – The workers' committees that participated in the setting up of the coordinating committee shall within the time limit of 15 days, request within the ministry responsible for public administration area the registration of the setting up of the coordinating committee and the approval of statutes or their changes, joining the statutes approved or changed, as well as certified copies of the minutes of the meeting in which the committee has been set up and registration document of voters.

5 – The workers' committees that participated in the election of the coordinating committee shall within the time limit of 15 days, request within the ministry responsible for public administration area the registration of the election of members of the coordinating committee, joining certified copies of the candidate lists, as well as the minutes of the meeting and registration document of voters.

6 – The ministry in charge of public administration shall register, within the time limit of 10 days:

a) The setting up of the workers 'committee and coordinating committee as well as the approval of the respective statutes or their changes;
b) The election of the workers' committee, workers' subcommittees and the coordinating committee members and publishes the respective composition.

Article 332

Publication

1 - The ministry responsible for the public administration area shall proceed, in articulation with the ministry responsible for the labour area, to the publication in the Labour and Employment Bulletin of:

a) The statutes of the workers' committee and coordinating committee or their changes;
b) The composition of the workers' committee, workers' subcommittees and coordinating committee.

2 – The workers' committee, the workers' subcommittee or the coordinating committee may only commence their activities after the publication of statutes and respective composition, under the terms of the preceding paragraph.

Article 333

Legality control of the setting up and statutes of committees

1 – After the setting up registration of the workers' committee and approval of statutes or their changes , the ministry responsible for public administration area forwards, within the time limit of eight days, calculated as from the publication, certified copies of minutes of the electoral committee and polling stations, of registration documents of voters, statutes approved or changed and registration request, as well as the grounded assessment on the legality of the setting up of the workers' committee and statutes or their changes, to the magistrate of the Public Prosecutor's Office of the headquarters area of the respective body or service.

2 – In the case of the statutes include provisions contrary to the law, the ministry responsible for public administration area, within the time limit referred to in the preceding paragraph, shall notify the parties concerned so that these ones may alter them within the time limit of 180 days.

3 – If no change has occurred within the time limit referred to in the preceding paragraph, the ministry responsible for public administration area shall act in accordance with provisions set out in paragraph 1.

4 – The provisions set out in the preceding paragraphs shall be applicable, with due adaptations, to the setting up and approval of the coordinating committee's statutes.

Article 334

Merger of services

In the case of abolishment of a service and of its integration in another one, whenever in this one there is not a workers' committee, the existing one in the integrating service shall continue in functions for a two-month period calculated as from the merger or until that a new structure meanwhile elected commences the respective functions.

Article 335

Judicial abolishment

When, the registration of the election of members of the workers' committee or the coordinating committee has not been requested within a six years period, calculated as from the last registration, the ministry responsible for public administration shall report the fact to the magistrate of the Public Prosecutor's Office within the competent court, which promotes, within the time limit of 15 days, calculated as from the receipt of that communication, the judicial declaration of abolishment of the respective committee.

Article 336

Cancellation of the registration

1 – The abolishment of the workers' committee or coordinating committee shall be reported to the ministry responsible for the public administration area, in order to cancel immediately the setting up registration and statutes and, through articulation with the ministry responsible for the labour area, promotes the publication of a notice in the Labour and Employment Bulletin.

2 – The ministry responsible for public administration area forwards to the magistrate of the Public Prosecutor's Office within the competent court certified copy of the communication related to the voluntary abolishment, accompanied by a grounded assessment on the legality of the deliberation, within the eight days subsequent to the publication of the notice referred to in the preceding paragraph.

3 – In the case of the abolishment deliberation does not comply with the law or the statutes, the magistrate of the Public Prosecutor's Office shall promote, within the time limit of 15 days, calculated as from the receipt, the judicial declaration of nullity of the deliberation.

4 – The court reports the judicial declaration of the nullity of the deliberation of abolishment, in a decision which has become final, to the ministry responsible for public administration area, which repeals the cancellation and, through articulation with the ministry responsible for the labour area, promotes the immediate publication of a notice in the Labour and Employment Bulletin.

5 – The abolishment of the workers' committee or the coordinating committee or the repeal of the cancellation takes effects as from the publication of the respective notice.

CHAPTER III

Trade union associations

SECTION I

General provisions

Article 337

Right to trade union association

1 – The workers in public functions are entitled to set up trade union associations at all levels, to defend and promote their socio-professional interests.

2 – Trade union associations in public functions are subject to provisions set out in the Labour Code, with due adaptations.

Article 338

Trade associations' rights

1 – The trade associations' rights referred to in the preceding article have, namely, the entitlement to:

a) Conclude collective labour agreements;
b) Provide services of economic and social nature to their associates;
c) Participate in the drawing up of labour legislation;
d) Participate in procedures related to workers, within the scope of reorganization procedures of bodies or services;
e) Establish relations or join international trade union organizations.

2 – The procedural legitimacy for the defence of rights and collective interests and for the collective defence of rights and individual interests legally protected of workers that represent shall be recognized to trade union associations.

3 – The trade union associations benefit from exemption from payment of procedural costs for the defence of rights and collective interests of workers that represent, being applicable in other cases the system provided for in the Procedural Costs Regulation, passed by Decree-Law No 34/2008, of 26 February, in the current wording.

SECTION II

Setting up and organization of associations

Article 339

Communications to the member of the Government responsible for public administration

1 – The provisions set out in the Labour Code shall be applicable to the setting up, abolishment and organization of trade union associations of workers in public functions.

2 – The ministry responsible for labour area forwards, unofficially, to the member of the

Government in charge of public administration area:

a) Copy of statutes of the trade union association;
b) Identification of the board members elected, as well as copy of the assembly minutes that elected them.

3 – The ministry in charge of the labour area shall report unofficially, to the member of the Government in charge of public administration the registration cancellation of the trade union association.

SECTION III

Trade union activity in the body or service

Article 340

Trade union activity

1 – The workers and the trade unions are entitled to carry out trade union activity in the body or service of the public employer, namely through trade union representatives, trade union committees and inter-trade union committees.

2 – The exercise of the right referred to in the preceding paragraph shall not compromise the pursuit of the public interest and the regular functioning of bodies or services.

Article 341

Workers' meeting at the workplace

1 – The workers may meet at the workplace:

a) Outside the work schedule observed by the workers, in general, as convened by the competent body of the trade union association, trade union representative or trade union or inter- trade union committee, without prejudice to the regular functioning of services, in the case of shift work or supplementary work;
b) During the work schedule observed by workers, in general, up to a maximum period of 15 hours per year, that are taken into account as actual and effective length of service, provided that they ensure the functioning of services of an urgent and essential nature.

2 – For the purposes of paragraph 1 of the preceding article, the meetings may be convened:

a) By the trade union committee or by inter-trade union committee;
b) Exceptionally, by trade union associations or the respective representatives.

3 – It is incumbent upon, exclusively the trade union associations to recognise the existence of exceptional circumstances that justify the holding of the meeting.

4 – The provisions set out in the Labour Code for meetings convened by workers' committees, with due adaptations shall be applicable to the holding of the meetings.

5 – The board members of trade union associations who do not work in the body or service may participate in the meetings by way of the communication of promoters to the public employer with a minimum six hours in advance.

Article 342

Number of trade union representatives

1 – The maximum number of trade union representatives who benefit from the protection system provided for in the present law and in the Labour Code shall be determined as follows:

a) Body or service, peripheral establishment or deconcentrated organic unit with less than 50 unionised workers, one;
b) Body or service, peripheral establishment or deconcentrated organic unit with 50 to 99 unionised workers, two;
c) Body or service, peripheral establishment or deconcentrated organic unit with 100 to 199 unionised workers, three;
d) Body or service, peripheral establishment or deconcentrated organic unit with 200 to 499 unionised workers, six;
e) Body or service, peripheral establishment or deconcentrated organic unit with 500 or more unionised workers, the number resulting from the following formula:
6 + [(n - 500): 200]
in which *n* is the number of unionised workers.

2 – The number determined under the terms of subparagraph e) of the preceding paragraph shall be rounded up for the unit immediately higher.

Article 343

Information and consultation of the trade union representative

1 – Trade union representatives enjoy the right to information and consultation with regard to matters set out in their duties.

2 – The right to information and consultation covers, the following matters in addition to others referred to in the law or identified in a collective labour agreement:

a) The information on the recent development and the likely evolution of activities of the body or service, of the peripheral establishment or deconcentrated organic unit and financial situation;
b) The information and consultation on the situation, structure and likely evolution of the employment in the body or service and on probable anticipatory measures provided for, namely in the case of threat to employment;
c) The information and consultation on decisions likely to trigger substantial changes at the work organization or employment contracts level.

3 – The trade union representatives shall request in writing, respectively, to the executive board of the body or service or the manager of the peripheral establishment or deconcentrated organic unit, the information data related to matters referred to in the preceding paragraphs.

4 – The information shall be provided in writing, within the time limit of 10 days, save if, for its complexity higher time limit shall be justifiable, which shall never be higher than 30 days.

5 – When the taking of decisions by the public employer are in question, in the exercise of management and organization powers resulting from the employment contract, the information and consultation procedures shall be conducted by both parties, with a view to reaching a consensus, whenever possible.

6 – Within the framework of the right to information and consultation, the access to a number

of matters is not allowed since they are subject to the secrecy system provided for in the law.

Article 344

Time credit of trade union representative

1 – Each trade union representative has for the fulfilment of functions a 12-hour credit per month.

2 – Until 15 January of each calendar year, the trade union association shall communicate to the bodies or services where the same fulfil functions, the identification of trade union representatives' beneficiaries of the time credit.

Article 345

Time credit of the board members of the trade union association

1 – Without prejudice to provisions set out in the collective labour regulation instrument, the maximum number of board members of the trade union association who benefit from the time credit shall be determined as follows:

a) Trade union associations with a number equal or lower than 200 associates, one member;
b) Trade union associations with more than 200 associates, a member for each 200 associates or fraction, up to the maximum limit of 50 members.

2 – In trade union associations whose internal organization includes management structures of regional, or district basis still benefit from time credit, in one of the following solutions:

a) In the regional basic structures, up to the maximum limit of seven, a member for each 200 associates or fraction corresponding to, at least, 100 associates, up to the maximum limit of 20 board members of each structure;
b) In the structures of district basis, up to the maximum limit of 18, a member for each 200 associates or fraction corresponding to, at least, 100 associates, up to the maximum limit of seven members of the board of each structure.

3 – The result shall be corrected following the joint application of paragraphs 1 and 2 so that shall not be verified a number lower than 1,5 of the result of application of provisions set out in subparagraph b) of paragraph 1, being considered for the purpose, that the maximum limit therein referred to is of 100 members.

4 – When the trade union associations include district structures in the continent and structures in the autonomous regions, the provisions set out in the subparagraph b) of paragraph 2 and provisions set out in the subparagraph a) of the same paragraph shall be applicable up to the maximum limit of two structures.

5 – As an alternative to provisions set out in the preceding paragraphs, without prejudice to provisions set out in collective labour regulation instrument, the maximum number of board members of trade union associations' representatives of local authority workers who benefit from time credit shall be determined as follows:

a) Municipality in which 25 to 49 unionised workers fulfil functions, one member;
b) Municipality in which 50 to 99 unionised workers fulfil functions, two members;
c) Municipality in which 100 to 199 unionised workers fulfil, functions, three members;
d) Municipality in which 200 to 499 unionised workers fulfil functions, four members;

e) Municipality in which 500 a 999 unionised workers fulfil functions, six members;
f) Municipality in which 1,000 to 1,999 unionised workers fulfil functions, seven members;
g) Municipality in which 2,000 to 4,999 unionised workers fulfils functions, eight members;
h) Municipality in which 5,000 to 9,999 unionised workers fulfil functions, 10 members;
i) Municipality in which 10, 000 or more unionised workers fulfil functions, 12 members.

6 – For the fulfilment of his/her functions, each board member benefits, under the terms of the preceding paragraphs, from time credit corresponding to four work days per month that may use in half day periods, maintaining the right to remuneration.

7 – Until 15 January of each calendar year, save if the specificity of the activity cycle justifies a different schedule, the trade union association shall communicate to the DGAEP:

a) The total number of associates, for board structure;
b) The identification of the board members' beneficiaries of the time credit and respective service of origin.

8 – The trade union association shall still, in the same time limit, communicate to the bodies or services where the same fulfil functions the identification of the board members' beneficiaries of the time credit.

9 – In the case of change of the composition of the trade union board, the communications provided for in the two preceding paragraphs shall be made within the time limit of 15 days.

10 – The trade union association shall communicate, with one day in advance or, in the case of impossibility, in one of the immediate two working days, to the bodies or services where they fulfil functions the board members referred to in the preceding paragraphs, the dates and the number of days that the same need for the fulfilment of the respective functions.

11 – The provisions set out in the preceding paragraphs shall not affect the possibility of the trade union board grant time credit to other members of the same, even though belonging to different services, and irrespective of these ones be integrated in the direct or indirect state administration, in the regional or local authority administration or in other public corporate body, provided that, in each calendar year, shall not exceed the global amount of the time credit granted under the terms of paragraphs 1 to 3 and communicates such fact to the DGAEP and the body or service where they fulfil functions, with a minimum 15 days in advance.

12 – The board members of the federation, union or confederation shall not benefit from time credit, the provisions set out in the following number shall be applicable to them.

13 – The board members of the federation, union or confederation may conclude agreements of temporary transfer due to public interest for the fulfilment of trade union function in those collective representation structures, and the respective remunerations shall be ensured by the transferring public employer, up to the following maximum number of board members:

a) Four members, in the case of trade union confederations that represent, at least, 5% of the universe of workers who fulfil public functions;
b) In the case of federations, two members for each 10, 000 associates or fraction corresponding, at least, to 5,000 associates, up to the maximum limit of 10 members;
c) One member, when it deals with of union of district or regional scope and represents, at least, 5% of the universe of workers who fulfil functions in the respective area.

14 – For the purposes provided for in the subparagraph b) of the preceding paragraph, the number of workers affiliated to associations that are part of those collective representation structures of workers shall be taken into account.

15 – The DGAEP, as well as the entity in which this one, on account of the specificity of careers, delegates this function, keeps follow up and control mechanisms updated of the credit systems and temporary transfer due to public interest provided for in the preceding paragraphs.

Article 346

Absences

1 – The board members of the trade union associations, whose identification is communicated to DGAEP and the body or service in which fulfil functions as per the present law, still enjoy, in addition to the time credit, the right of justified absences, that are taken into account, for all legal purposes, as actual and effective service, save as to the remuneration.

2 – The other board members benefit from the right to justified absences, up to the limit of 33 absences per year, that are taken into account for all legal purposes, as actual and effective service, save as to the remuneration.

3 – When the absences derived from trade union activity are extended beyond a month, the contract suspension system for a fact relating to the worker shall be applicable.

4 – The provisions set out in the preceding paragraph shall not be applicable to board members whose absence in the workplace, beyond one month, is derived from the accumulation of time credit.

Section IV

Electoral Acts

Article 346 - A

Participation in electoral processes

1 - For the holding of constituent assemblies of trade union associations or for the purposes of amending the statutes or electing the managing bodies, workers shall enjoy the following rights:

a) Release from service for the members of the electoral general assembly and the electoral supervisory commission, up to the limit of seven members, for the maximum period of 10 working days, with the possibility of using half-days;
b) Release from service for full and substitute members of the candidate lists for a maximum period of six working days, with the possibility of using half-days;
c) Release from service for members of the polling station, up to a limit of three or up to the limit of the number of candidate lists, if the number of these is higher than three, for a period not exceeding one day;
d) Release from service for workers with voting rights, for the time necessary to exercise the respective right;
e) Release from service for workers who participate in activities of supervision of the electoral act during the voting and counting of vote's period.

2 - At the request of the trade union associations or the committees promoting the respective establishment, polling stations may be set up and operate in the workplaces during working hours.

3 – The releases from service provided for in paragraph 1 shall not be set off against other credits provided for by law.

4 – The releases from service provided for in paragraph 1 shall be treated as effective service for all legal purposes.

5 - The exercise of the rights provided for in this article may only be prevented on the express written grounds of serious damage to the public interest.

Article 346 – B

Formalities

1 – The communication for the polling stations setting up and operation shall be submitted, preferably by electronic means, to the top manager of the body or service no less than 10 days in advance, and shall include:

a) Identification of the electoral act;
b) Indication of the intended location;
c) Identification of the polling station members or substitutes;
d) The operation period.

2 - Polling stations setting up and operation shall be considered to be authorised if, within the three days following the communication submission, no refusal order is issued and the trade union association or promoting committee is notified.

Article 346 – C

Voting

1 - Voting shall take place within the normal period of functioning of the body or service.

2 – The polling stations operation shall not interfere with the normal functioning of the bodies and services.

Article 346 – D

Voting at a different location

Workers who have to vote in a place other than that in which they fulfil their functions may only remain there for the time necessary to exercise their voting right.

Article 346 – E

Extension

Releases from service may be granted to workers, in terms to be defined on a case-by-case basis by order of the member of the Government responsible for the area of public administration, in the case of statutory electoral consultations or others concerning workers' collective interests, namely congresses or others of a similar nature.

TITLE II

Collective negotiation

CHAPTER I

General principles

SECTION I

General provisions

Article 347

Right to collective negotiation

1 – The right to collective negotiation shall be ensured to workers with public employment relationship under the terms of the present law.

2 – The right to collective negotiation of workers shall be exercised exclusively by trade union associations that, under the terms of the respective statutes, represent interests of workers in public functions and are duly registered.

3 – The collective negotiation aims to:

a) Reach an agreement on matters that integrate the statute of workers in public functions, to be included in legislative acts or administrative regulations applicable to these workers;
b) Conclude a conventional collective labour regulation instrument applicable to workers with employment contract in public functions.

Article 348

Principles

1 – The public employer and trade union associations shall comply with the principle of good faith in the collective negotiation, namely by replying as quickly as possible, either to requests for meetings, or to mutual proposals, and shall be represented in the meetings intended to negotiation and conflict prevention or resolution.

2 – The consultations of representatives of the public employer and workers, through their trade union organizations, shall be made as soon as possible and shall not suspend or interrupt the conduct of the negotiation procedure, if the parties concerned expressly therein so agree.

3 – Each one of the parties may request to the other the information deemed necessary to that appropriate exercise of the right to collective negotiation, namely studies and data of a technical or statistical nature, non-confidential, and that are deemed indispensable for the justification of proposals and counter-proposals.

4 – In the collective negotiation related to the statute of workers in public functions, the public administration and trade union associations shall ensure the assessment, discussion and resolution of questions raised within a global perspective common to all services and organizations and to workers as a whole, abiding by the principle of the public interest pursuit.

5 – In the negotiation procedure for the conclusion of a conventional collective labour regulation instrument, shall not be refused the supply of activity plans and reports of the bodies or services nor, in any case, the indication of the number of workers, by category, who are placed within the scope of application of the agreement to be concluded.

Article 349

Legitimacy

1 – The following entities have legitimacy for the collective negotiation, in workers' representation:

a) The trade union confederations with seat in the Social Dialogue Standing Committee;

b) The trade union associations with a number of unionised workers that correspond to, at least, 5% of the total number of workers who fulfil public functions;

c) The trade union associations that represent workers of all public administrations and, in the state administration, in all ministries, provided that the number of unionised workers corresponds to, at least, 2,5 % of the total number of workers who fulfil public functions;

d) In the case of sectoral collective negotiation, if matters relating to special careers are in question, the trade union associations with seat in the Social Dialogue Standing Committee and trade union associations that represent, at least, 5% of the total number of workers integrated in a special career in question.

2 – In the collective negotiation are deemed representatives of trade union associations:

a) The members of the respective boards, holders of credentials with sufficient powers to negotiate;

b) The holders of a written mandate given by the boards of trade union associations, bearing expressly powers to negotiate.

3 – The repeal of the mandate provided for in the preceding paragraph is only effective after communication to public administration competent services.

4 – The public employer is represented in the collective negotiation procedure by the Government, as follows:

a) In the general collective negotiation, through the members of the Government responsible for public administration area, who coordinates and the finance;

b) In the sectoral collective negotiation, through the member of the Government responsible for the sector, that coordinates, and the members of the Government in charge of finance and public administration.

5 – The entities referred to in the preceding paragraph may intervene in the collective negotiation directly or through representatives.

6 – It is incumbent upon the DGAEP to support the member of the Government responsible for public administration area in the collective negotiation procedure.

CHAPTER II

Collective negotiation on the statute of workers in public functions

Article 350

Object of the collective negotiation

1 – The following matters are subject to collective negotiation, for the conclusion of an agreement as to the statute of the workers with public employment relationship:

a) Formation, amendment and termination of the public employment relationship;
b) Recruitment and selection;
c) Careers;
d) Working time;
e) Holidays, absences and leaves;
f) Remuneration and other cash benefits, including the change of remuneration levels and the cash amount of each remuneration level;
g) Training and further training;
h) Safety and health at work;
i) Disciplinary system;
j) Mobility;
k) Performance appraisal;
l) Collective rights;
m) Convergent social protection system;
n) Complementary social action.

2 – Matters related to the structure, assignments and competencies of Public Administration shall not be the subject of collective negotiation.

3 – The collective negotiation referred to in paragraph 1 may be general or sectoral, under the terms defined in the present law.

Article 351

Negotiation procedure

1 – The general collective negotiation has annual basis, and shall be initiated as from 1 September.

2 – The negotiation shall be initiated with the submission, by one of the parties, of a grounded proposal on any of the matters provided for in the preceding article, subsequently the scheduling of negotiations shall be made, in such a way as to these ones tend to end before the global final voting of the draft state budget law, under the constitutional terms, in the Assembly of the Republic (Parliament).

3 – The matters without budgetary impact set out in the preceding article may be the subject of negotiation at any time, provided that the parties therein agree and that have not been discussed in the preceding annual general negotiation.

4 – The parties shall justify their proposals and counter-proposals, falling upon them the duty of trying to reach an agreement, in an appropriate time limit.

5 – The convening of meetings within the negotiable procedure shall be made within five

working days in advance, unless otherwise agreed by the parties.

6 – Minutes of the meetings shall be drawn up, signed by the parties, presenting a summary of what has taken place, namely the items that have not been agreed upon.

7 – The sectoral negotiations shall be commenced in any time of the year and has the term which has been agreed between the parties, the principles set out in the preceding paragraphs shall be applicable to them.

8 – The appropriate negotiable procedure to the nature of the respective functions, without prejudice to the rights recognised in the present law shall be applied in each case to staff with functions of external representation of the state, as well as to staff who fulfil functions of a highly confidential nature.

Article 352

Supplementary collective negotiation

1 – Once the negotiation period has been ended without any agreement, a supplementary negotiation may be opened, at the request of trade union associations, for conflict resolution.

2 – The request for supplementary negotiation shall be submitted at the end of the last negotiable meeting, or in writing, within the time limit of five working days, calculated as from the closure of negotiation procedures provided for in the preceding article, and must be given notice of it to all parties concerned in the procedure.

3 – The supplementary negotiation, provided that it is requested as per the preceding paragraph, is compulsory, and shall not exceed 15 working days.

4 – In the supplementary negotiation, the governmental party is composed of a member or members of the Government, and is compulsorily presided over by the responsible for public administration and, in the case of sectoral negotiations, for whom is responsible for the sector concerned.

Article 353

Information on remuneration policy

The trade union associations may forward to the Government, until the end of the first semester of each year, the respective position on the criteria that consider should guide the remuneration policy to be pursued in the following year.

Article 354

Agreement resulting from the negotiation

1 – Without prejudice to other time limits defined by the parties, the agreement referred to in subparagraph a) of paragraph 3 of article 347 obliges the Government to take legislative or administrative measures appropriate to their full and accurate compliance, within the maximum time limit of 180 days, and the matters that need legislative authorization, shall submit the respective draft laws to the Assembly of the Republic (Parliament), within the maximum time limit of 45 days.

2 – Once the supplementary negotiation has been closed without reaching an agreement, the

Government takes the decision that deems appropriate.

CHAPTER III

Collective labour regulation instrument

SECTION I

General provisions

Article 355

Content of the collective labour regulation instrument

1 – In addition to other matters provided for in the present law or in special norm, the collective labour regulation instrument may only stipulate on:

a) Remuneration supplements;
b) Performance rewarding systems;
c) Systems adapted and specific for performance appraisal;
d) Term and working time organization systems;
e) Mobility systems;
f) Complementary social action.

2 – The collective labour regulation instrument shall not:

a) Contradict imperative legal norm;
b) Stipulate on the Public administration structure, assignments and competencies;
c) Confer retroactive effectiveness at any clause that is not of a cash nature.

Article 356

Publication and entry into force of collective labour regulation instruments

1 – The collective labour regulation instruments, as well as their repeal, are in the Labour and Employment Bulletin and enter into force, after their publication, under the same terms of the laws.

2 – The ministry responsible for the Public Administration area shall proceed, in articulation with the ministry responsible for the labour area, to the publication, in accordance with paragraph 1, of acts relating to collective labour regulation instruments, including notifications concerning the date of the collective labour agreements termination.

3 – The collective labour regulation instruments that are the object of three revisions are fully republished.

Article 357

Application of collective labour regulation instruments

1 – In the compliance with the collective labour agreement the parties shall, such as the respective members, act with good faith.

2 – During the execution of the collective labour agreement the circumstances in which the parties have justified the decision of contracting shall be taken into consideration.

3 – The signing party of the collective labour agreement, as well as the respective members who are culpable missing to the compliance with obligations emerging from it, are responsible for the damage caused, as per the general terms.

Article 358

Publication

The public employer shall affix in the body or service, at an appropriate place, the indication of collective labour regulation instruments applicable.

SECTION II

Collective labour agreement

SUBSECTION I

Negotiable procedure for the conclusion of a collective agreement

Article 359

Proposal

1 – The conclusion of a collective labour agreement shall be preceded by a negotiation procedure.

2 – The negotiation procedure shall be initiated with the submission to the other party of a proposal for conclusion or revision of the collective labour agreement.

3 – The proposal shall take a written form, be duly justified and contain the following data:

a) Designation of entities that sign it on their own behalf and in representation of others;
b) Indication of the collective labour agreement that is aimed to be revised, where appropriate, and respective date of publication.

Article 360

Response

1 – The recipient's entity of the proposal shall respond, in writing and substantiated form, within the 30 days following the receipt of that one, unless a longer term period is agreed by the parties or indicated by the applicant.

2 – The response shall express a position related to all clauses of the proposal, accepting, refusing or counter proposing.

3 – The absence of a response or counter proposal, within the time limit set in paragraph 1 and pursuant to the terms of the preceding paragraph, legitimates the applicant entity to request the conciliation.

Article 361

Priority in terms of negotiation

1 – The parties shall, whenever possible, give due priority to matters relating to remuneration supplements, performance bonuses and working time term and organization, bearing in mind the adjustment of the global increase of charges thereof resulting, as well as the matter related to safety, hygiene and health at work.

2 – The unfeasibility of the initial agreement on matters referred to in the preceding paragraph shall not justify the break of the negotiation.

Article 362

Direct negotiations

1 – Following the response, direct negotiations shall be initiated.

2 – During the negotiation, the representatives of the parties shall provide the information relevant and make the necessary consultations to the workers and public employers concerned, under the terms of the present law.

Article 363

Technical support

In the preparation of the proposal and response and during the negotiations, the DGAEP and other bodies and services provide the parties with the information necessary they possess and that shall be requested by them.

SUBSECTION II

Conclusion and content

Article 364

Legitimacy and representation

1 – The trade union associations with legitimacy for collective negotiation may conclude collective agreements of general careers, in workers' representation, and by public employers, the members of the Government responsible for finance and public administration areas.

2 – The following entities have legitimacy to conclude collective agreements of special careers:

a) By trade union associations, the trade union confederations with seat at the Social Dialogue Standing Committee and the trade union associations that represent, at least, 5% of the total number of workers integrated in the special career in question;

b) By public employers, the members of the Government responsible for finance and public administration areas and other concerned members of the Government, according to the careers object of agreements.

3 – The following entities have legitimacy to conclude collective agreements of public employer:

a) By trade union associations, trade union confederations with seat at the Social Dialogue

Standing Committee and other trade union associations' representatives of the respective workers;

b) By public employer, the member of the government that oversees the body or service and the public employer as per paragraph 1 of article 27, and also the members of the Government responsible for finance and public administration areas in the case of paragraph 3 of article 105.

4 - In local government, the trade union associations, referred to in subparagraph a) of the preceding paragraph, and the municipal public employer, under the terms of paragraph 2 of article 27, have legitimacy to conclude collective agreements of public employer.

5 – The trade union associations that submit a single proposal of conclusion or revision of a collective labour agreement and that, together, comply with criteria of subparagraphs b) and c) of paragraph 1 of article 349 have still legitimacy to conclude collective agreements of general careers.

6 – In the case provided for in the preceding paragraph, the negotiable procedure shall be carried out jointly.

7 – The collective agreements are signed by trade union associations' representatives and public employers or respective representatives as well as by members of the Government in the situations in which they have legitimacy to celebrate them, according to paragraph 3.

Article 365

Form of collective labour agreement

1 – The collective labour agreement has a written form, under penalty of nullity.

2 – The following references are compulsorily set out in the collective labour agreement:

a) The signing entities;
b) Name and capacity in which the representatives of the signing entities intervene;
c) Scope of application;
d) Date of signing;
e) Collective labour agreement changed or replaced and respective date of publication, if it exists;
f) Validity period, if it exists;
g) Estimate of the bodies or services and the number of workers covered by the collective labour agreement, drawn up by the signing entities.

Article 366

Content of the collective labour agreement

1 – The collective labour agreement shall regulate:

a) The relations between the signing parties, in particular with regard to the checking of the compliance with the agreement and the means of conflict resolution arising from its application and revision;
b) The time scope, namely the over-validity and the time limit of termination of the agreement;

c) The definition of essential and minimum services and the means needed to ensure them in the case of a strike.

2 – The collective labour agreement shall predict the setting up of a committee made up of equal number of representatives of the signing parties, with competence to interpret and integrate its clauses.

Article 367

Joint committee

1 – The functioning of the joint committee provided for in paragraph 2 of the preceding article shall be regulated by collective labour agreement.

2 – The joint committee may only decide provided that half of the representatives of each party are present.

3 – The decision taken unanimously is deemed, for all purposes, as integrating the collective labour agreement to which relates, and shall be deposited and published under the terms of the collective labour agreement.

SUBSECTION III

Deposit

Article 368

Deposit procedure of the collective labour agreement

1 – The collective labour agreement, as well as the respective repeal, shall be delivered for deposit at the DGAEP, within the five days subsequent to the date of the signature.

2 – The third consecutive partial revision of a collective labour agreement shall be accompanied by a consolidated text signed under the same terms, which, in the case of divergence, prevails over the texts to which refers.

3 – The agreement and the consolidated text are delivered in an electronic document, under the terms provided for in an order of the member of the Government responsible for public administration area.

4 – The deposit shall depend upon the collective labour agreement to meet the following requirements:

a) Being concluded for those who have capacity for the purpose;
b) Being accompanied by documents proving the representation of the signing entities, issued for those who may bind the trade union associations and the signing public employer;
c) Abiding by the provisions set out in paragraphs 2 and 3;
d) Complying with the provisions set out in the article 365.

5 – The deposit is deemed made if it is not refused within the 15 days following the receipt of the collective labour agreement in the service referred to in paragraph 1.

6 – The justified refusal of the deposit shall be notified to the parties, and all documents shall be returned.

Article 369

Change of the agreement before the decision on the deposit

1 – By agreement of the parties and while the deposit is pending, any formal or substantial change may be introduced to the collective labour agreement delivered for this purpose.

2 – The change referred to in the preceding paragraph shall interrupt the time limit for the deposit provided for in the preceding article.

SUBSECTION IV

Personal scope of application

Article 370

Subjective impact of the collective labour agreements

1 – The collective labour agreement obliges the public employers covered by their scope of application and the signing trade union associations.

2 – The collective labour agreement shall be applicable to workers joined in the signing association or members of the trade union affiliated to the union, federation or signing trade union confederation.

3 – The collective labour agreement shall be still applied to other workers integrated in a career or in functions in the public employer to which the collective labour agreement is applicable, unless the non-unionised worker expresses objection otherwise or the concerned trade union with legitimacy to conclude the collective labour agreement, in relation to its members.

4 –The right of objection provided for in the preceding paragraph shall be exercised within the time limit of 15 days, calculated as from the date of entry into force of the collective agreement, through the written communication addressed to the public employer.

5 – In the case of being applicable more than one collective agreement within the scope of the public employer, the non-unionised worker shall indicate in writing to the employer the collective agreement that intends to be applied to him/her.

6 – In the absence of indication provided for in the preceding paragraph, the collective labour regulation instrument that covers the greatest number of workers within the scope of the public employer shall be applicable.

Article 371

Temporal determination of affiliation

1 – The collective agreements cover the workers who are affiliated to the signing associations at the moment of the commencement of the negotiable procedure, as well as those who thereto are affiliated during the validity period of the same agreements.

2 – In the case of workers or respective associations of signing parties withdrawing from membership, the collective labour agreement shall be applicable until the end of the time limit of which expressly is set out or, if the agreement is the object of change, until the date of entry into force of this one.

3 – In the case of the collective labour agreement has no validity period, the workers or the respective associations which have withdrawn from membership of the signing parties are covered during the minimum time limit of one year.

4 – The non-unionised worker's option for the subjection to a collective agreement, exercised under the terms of the preceding article shall be irrevocable until the end of the period established in paragraphs 2 and 3, as the case may be.

Article 372

Effects of the succession in the assignments

1 – In the case of reorganization of bodies or services with transfer of their assignments or competencies to other body or service, the collective agreements of public employer that bind those bodies or services are applicable to the integrating body or service until the term of the respective time limits of validity and, at least, during 12 months, calculated as from the date of transfer, save if, meanwhile, other collective labour agreement of public employer is to be applicable to the integrating body or service.

2 – In the case of transfer of assignments or management responsibilities of the body or service to public corporation entities or private entities under any form, the collective labour regulation instrument that binds that body or service shall be applicable to those entities until the term of the respective time limit of validity and, at least, during 12 months, calculated as from the transfer, save if, meanwhile, other conventional collective labour regulation instrument is to be applicable to the same entities.

SUBSECTION V

Time scope of application

Article 373

Validity

1 – The collective labour agreement is effective for the time limit that therein is set out, and this one shall not be lower than one year.

2 – Once the validity time has been elapsed the following system shall be applicable:

a) The collective labour agreement shall be renewed under the terms therein provided for;
b) In the case of not regulating the matter issued in the preceding paragraph, the collective labour agreement shall be renewed successively for one year periods.

3 – The collective labour agreements may have different validity periods for each matter or homogeneous group of clauses.

Article 374

Termination

1 – The collective labour agreement may be terminated, by any of the signing parties, by means of written communication addressed to the other party, provided that it is accompanied by a negotiable proposal.

2 – In the case of the agreement establish a time limit of validity the termination shall not be made with higher than three months in advance with regard to the term of that time limit or renewal underway.

3 – In the case of the collective labour agreement shall not establish a time limit of validity, the termination shall not be made before 10 months have been elapsed over its entry into force.

Article 375

Over-validity

1 – If there is termination, the collective labour agreement shall be renewed for an 18-month period, and the parties shall promote the procedures leading to the conclusion of a new agreement.

2 – Once the period referred to in the preceding paragraph has been elapsed, the collective labour agreement expires, and shall be maintained, until the entry into force of other collective labour agreement or arbitral decision, the effects defined by agreement of the parties or, in its absence, those already produced by the same agreement in the contracts with regard to:

a) Worker's remuneration;
b) Working time term.

3 – In addition to the effects referred to in the preceding paragraph, the worker benefits from other rights and guarantees resulting from the application of the present law.

4 – Once the time limit of one year after the expiry of the collective labour agreement has been elapsed, without a new agreement has been concluded and tried out the other means of collective conflict resolution, any of the parties may activate the arbitration necessary, through communication to the opposing party in the negotiation on the collective labour agreement and to DGAEP.

Article 376

Termination

The collective labour agreement may terminate:

a) Through repeal by agreement of the parties;
b) By expiry, under the terms of the preceding article.

Article 377

Succession of collective labour agreements

1 – The subsequent collective labour agreement fully repeals the preceding agreement, save in matters expressly duly safeguarded by the parties.

2 – The mere succession of collective agreements shall not be invoked to reduce the global protection level of workers.

3 – The rights resulting from the collective labour agreement may only be reduced by a new agreement, the text of which shall be set out, in express terms, it's most favourable globally nature.

4 – In the case provided for in the preceding paragraph, the new collective labour agreement shall affect the rights resulting from the preceding agreement, save if, in the new agreement, are expressly safeguarded by the parties.

SECTION III

Adhesion agreement

Article 378

Adhesion to collective labour agreements and arbitral decisions

1 – The trade union associations and, in the case of collective agreements of public employer, this one may adhere to collective labour agreements or arbitral decisions in force.

2 – The adhesion is made by agreement between the entity concerned and that one or those ones that would oppose to it in the negotiation of the agreement, if therein would have participated.

3 – The adhesion shall not lead to amendment of the content of the collective labour agreement or arbitral decision, even though destined to be applied only within the scope of the adhering entity.

4 –The rules related to the signature are applied to adhesion agreements, to the deposit and to the publication of collective labour agreements.

CHAPTER IV

Arbitration

SECTION I

General provisions

Article 379

Admissibility

The parties may, at any time, agree in submitting the arbitration, under the terms that are defined or, in the absence of the definition, according to the provisions set out in the following articles, the labour questions that result namely from the interpretation, integration, conclusion or revision of a collective labour agreement.

Article 380

Effects of the arbitral decision

1 – The arbitral decision takes the effects of the collective labour agreement.

2 – The rules on the compulsory content, deposit and publication provided for the collective labour agreements are applied to arbitral decisions, with due adaptations.

SECTION II

Voluntary arbitration

Article 381

General rules of voluntary arbitration

1 – The parties may, at any time resort to voluntary arbitration.

2 – The voluntary arbitration shall be governed by agreement of the parties or, in the absence of this one by provisions set out in the following paragraphs.

3 – The arbitration is carried out by three arbitrators, one appointed by each one of the parties and the third one chosen by these ones.

4 – In the case of the third arbitrator has not been chosen the DGAEP shall draw lots, from among the arbitrators set out in the list of president arbitrators, within the time limit of five working days.

5 – The DGAEP shall be informed by the parties about the commencement and the term of the respective procedure.

6 – The arbitrators may be assisted by experts and are entitled to obtain from the parties, DGAEP and other bodies and services the information necessary that they possess.

7 – The arbitrators forward the text of the decision to the parties and DGAEP, for the purposes of deposit and publication, within the time limit of 15 days, calculated as from the decision.

8 – The general system of the voluntary arbitration is additionally applicable.

SECTION III

Arbitration necessary

Article 382

System applicable

1 – The arbitration necessary shall be governed by norms of the present law and, with due adaptations, by the arbitration system provided for in the Decree-Law No 259/2009, of 25 September, namely as to formation and functioning of the arbitral court and to the independence, impediments and replacement of the arbitrators.

2 – The general system of the voluntary arbitration is applicable additionally.

Article 383

Setting up of the arbitral court

1 – The arbitration necessary is activated through grounded communication of any of the parties to the opposing party in the negotiation of the collective labour agreement and to DGAEP.

2 – The arbitration is carried out by three arbitrators, one appointed by each one of the parties and the third chosen by these ones.

3 – Within the 48 hours subsequent to the communication referred to in paragraph 1, the parties appoint the respective arbitrator, whose identification is communicated, within the time limit of 24 hours, to the other party along with DGAEP.

4 – Within the time limit of 72 hours, calculated as from the communication referred to in the preceding paragraph, the arbitrators choose the third arbitrator, whose identification is communicated, within the 24 hours subsequent, to the entities referred to in the preceding paragraph.

5 – In the case of not having been made the appointment of the arbitrator by one of the parties, the DGAEP shall draw lots within the time limit of five working days of the missing arbitrator, from among those set out in the list of arbitrators of the representatives of the workers or public employers, according to the cases, and the defaulting party may offer other, in his/her replacement, in the following 48 hours, in this case the arbitrators appointed choose the third arbitrator, under the terms of the preceding paragraph.

6 – In the case of the choice of the third arbitrator has not been made, the DGAEP shall draw lots, from among the arbitrators set out in the list of president arbitrators, within the time limit of five working days.

7 – The DGAEP shall notify the representatives of the worker party and public employers on the day and hour of the drawing lots this shall be carried out at scheduled hour, in the presence of all representatives or, in the absence of these ones, one hour later, with those who were present.

Article 384

Lists of arbitrators

1 – The lists of arbitrators of the representatives of workers and public employers are composed of eight arbitrators and drawn up, respectively, by trade union confederations and by the member of the Government responsible for public administration area.

2 – In the case of the lists of arbitrators of representatives of workers and, or, of public employers shall have not been drawn up under the terms of the preceding paragraph, the competence for their drawing up shall be assigned to the President of the Economic and Social Council, who shall draw up it within the time limit of one month.

3 – The list of the president arbitrators is composed of judges or retired magistrates, indicated, in number of three, by each one of the following entities:

a) Supreme Council of the Judiciary;
b) Supreme Council of Administrative and Fiscal Courts;
c) Supreme Council of the Public Prosecutor's Office.

4 – Each list is effective and in force for a three-year period.

5 – The lists of arbitrators shall be communicated to DGAEP that ensures their permanent updating.

6 – The drawing lots shall be the responsibility of DGAEP, and the rules of the Decree-Law No 259/2009, of 25 September shall be complied, with due adaptations.

Article 385

Place of arbitration and support

1 – The arbitration shall be held in a previously place indicated by the President of the Economic and Social Council, through order issued at the beginning of each calendar year.

2 – The use of the premises of any of the parties shall only be allowed in the case of these ones and the arbitrators so agree.

3 – In the absence of an order or agreement referred to in the preceding paragraphs, the arbitrations are carried out at DGAEP facilities.

4 – It is incumbent upon the ministry responsible for public administration area to make facilities available for the carrying out of the arbitration, whenever unavailability of such facilities indicated by the President of the Economic and Social Council shall occur.

5 – The arbitral court may request to DGAEP, other bodies and services and to the parties the information necessary they possess.

6 - The DGAEP ensures the administrative support to the functioning of the arbitral court.

Article 386

Charges inherent to the procedure

1 – The charges resulting from the recourse to the arbitration shall be borne by the State Budget, through DGAEP.

2 – The charges inherent to the procedure are as follows:

a) The fees, travelling expenses and accommodation of arbitrators;
b) The fees, travelling expenses and accommodation of experts.

3 – The fees of arbitrators and experts are set by order of the member of the Government responsible for public administration area, preceded by hearing of trade union confederations with seat at the Social Dialogue Standing Committee.

4 – The retired president arbitrators may cumulate the pension with the remuneration that corresponds to the functions of president arbitrator, with a limit corresponding to one third of the pension received.

5 – The provisions set out in the preceding paragraphs and the rules on the arbitration place are applied, with due adaptations, to conciliation, mediation and voluntary arbitration procedures, whenever the conciliator, mediator or the president arbitrator are chosen from among a list of president arbitrators.

TITLE III

Collective labour disputes

CHAPTER I

Conciliation, mediation and arbitration

Article 387

Modes of collective conflict settlement

1 – The collective labour conflicts, namely those which result from the conclusion or revision of a collective labour agreement, may be settled by conciliation, mediation and arbitration.

2 – Pending a collective conflict settlement the parties shall act with good faith.

Article 388

Admissibility and conciliation system

1– In the absence of conventional regulation of the conciliation, this one may be promoted at any time:

a) By agreement of the parties;
b) By one of the parties, in the case of absence of response to the proposal of conclusion or of revision of the collective agreement, or, outside this case, through eight-day previous notice, in writing, to the other party.

2 – The conciliation shall be requested to DGAEP and carried out by one of the president arbitrators set out in the list of arbitrators referred to in paragraph 3 of article 384, advised by DGAEP.

3 – The arbitrator referred to in the preceding paragraph shall be drawn lots by DGAEP, within the time limit of five working days.

4 – The conciliation request shall set out the indication of the respective object.

Article 389

Conciliation procedure

1 – The parties are convened by the conciliator arbitrator for the commencement of the conciliation procedure, within the 15 days following the submission of the request.

2 – The conciliation procedure takes place at DGAEP facilities.

3 – The arbitrator shall invite the parties in the negotiation procedure that shall not request the conciliation to participate in the conciliation for the revision of a collective labour agreement.

4 – The parties referred to in the preceding paragraph shall respond to the invitation within the time limit of five working days.

5 – The parties are obliged to attend the conciliation meetings.

Article 390

Transformation of the conciliation into mediation

The conciliation may be transformed into mediation, under the terms of the following articles.

Article 391

Admissibility of mediation

1 – The parties may, at any time, agree to submit to mediation the collective conflicts, to be carried out by mediation public services or other labour mediation systems.

2 – In the absence of agreement provided for in paragraph 1, one of the parties may request to DGAEP, one month after the commencement of the conciliation, the intervention of one of the personalities set out in the list of president arbitrators referred to in paragraph 3 of article 384, to fulfil functions of mediator.

3 – The mediation request shall set out the indication of the respective object.

Article 392

Functioning of the mediation

1 – The mediation is made, where it is required by one or by both parties, by one of the president arbitrators referred to in paragraph 3 of article 384, advised by DGAEP.

2 – The arbitrator referred to in the preceding paragraph shall be drawn lots by DGAEP, from among those set out in the list of president arbitrators, within the time limit of five working days.

3 – If the mediation is only required by one of the parties, the mediator shall request the other party to take a position on the respective object.

4 – If the parties disagree on the object of the mediation, the mediator shall decide taking into consideration the feasibility of agreement of the parties.

5 – The mediator may carry out all contacts, with each one of the parties separately, deemed suitable and feasible in order to reach an agreement.

6 – The parties are obliged to attend the meetings convened by the mediator.

7 – For the drawing up of the proposal, the mediator may request the parties and any other body or service data and information that they possess and that the mediator deems necessary.

8 – The mediator shall forward his/her proposal to the parties, by registered letter, within the time limit of 30 days, as from his/her appointment.

9 – The mediator's proposal shall be deemed refused if there is no written communication of both parties to accept it within the time limit of 10 days, as from its receipt.

10 – Once the time limit set in the preceding paragraph has been elapsed, the mediator shall communicate, simultaneously, to each one of the parties, within the time limit of five days, the acceptance or refusal of the parties.

11 – The mediator shall be bound by the secrecy on all information collected in the course of the procedure that is not known of the other party.

Article 393

Arbitration

The collective disputes may be settled by arbitration, under the terms provided for in articles 381 to 386.

CHAPTER II

Strike and prohibition of lock-out

SECTION I

General provisions

Article 394

Right to strike

1 – The strike constitutes a right of workers with public employment relationship.

2 – The provisions set out in the preceding paragraph shall not affect the existence of special systems, under the terms of the Constitution.

3 – The Labour Code system, with due adaptations and specificities set out in the present law shall be applicable to the strike and lock-out.

Article 395

Competence to declare the strike

Without prejudice to the right of trade union associations, the workers assemblies may deliberate the recourse to the strike, provided that in the respective body or service most of the workers is not represented by trade union associations and that the assembly is expressly convened for the purpose by 20% or 200 workers, the most of workers of the body or service participates in the voting and the declaration of the strike is approved by secret ballot by most of the voters.

Article 396

Prior notice of strike

1 – The entities with legitimacy to decide the recourse to the strike shall address the public employer, the member of the Government responsible for Public Administration area and other relevant members of the Government, by suitable means, namely in writing or through the mass media, a prior notice, with a minimum time limit of five working days or, in the case of bodies or services that are intended to meet imperative social needs, 10 working days.

2 – The prior notice shall contain a proposal for definition of services necessary to safety and maintenance of the equipment and facilities, as well as, whenever the strike occurs in a body or service intended to meet imperative social needs, a proposal for definition of essential services.

Article 397

Obligations and service delivery during the strike

1 – In the bodies or services that are intended to meet imperative social needs, the association that declares the strike, or the strike committee, and the adhering workers shall ensure, during the strike, the essential services delivery indispensable to meet those needs.

2 – For the purposes of provisions set out in the preceding paragraph, bodies or services that are deemed to meet imperative social needs, are those which integrate, namely, in some of the following sectors:

a) Public security, in public space and in institutional services namely prisons and courts;
b) Post office and telecommunications;
c) Medical, hospital and medicated services;
d) Education, concerning the carrying out of final appraisals, examinations or tests of a national nature that have to be carried out on the same date throughout the national territory;
e) Public healthiness, including the holding of funerals;
f) Energy and mining services, including the fuel supply;
g) Water supply and distribution;
h) Firemen;
i) Services dealing with the public that ensure the meeting of essential needs whose provision shall be the responsibility of the State;
j) Transport related to passengers, animals and perishable foodstuffs and essential goods to the national economy, covering the respective loading and unloading;
k) Transport and security of monetary values.

3 – The trade union associations and the workers are obliged to provide, during the strike, the services necessary to the security and maintenance of the equipment and facilities.

4 – The workers who provide, during the strike, the services necessary to the security and maintenance of the equipment and facilities and those assigned to the provision of essential services are maintained, on the strict necessary measure to the provision of those services, under the authority and administration of the public employer, and are entitled to remuneration.

Article 398

Definition of services to be ensured during the strike

1 – The services provided for in paragraphs 1 and 3 of the preceding article and the means necessary to ensure them, shall be defined by collective labour regulation instrument or by agreement with workers' representatives.

2 – In the absence of an estimate in a collective labour regulation instrument or of agreement on the definition of essential services provided for in paragraph 1 of the preceding article, the member of the Government responsible for public administration area convenes the workers 'representatives and the representatives of public employer entities concerned, with a view to negotiating an agreement as to essential services and regarding the means necessary to ensure them.

3 – In the absence of an agreement until the term of the third day subsequent to the prior notice of strike, the definition of services and the means referred to in the preceding paragraph shall

be incumbent upon an Arbitral College, composed of three arbitrators set out in the lists of arbitrators provided for in the article 384.

4 – The public employer shall report to DGAEP, within the 24 hours subsequent to the receipt of the pre-notice of strike, the need of negotiation of the agreement provided for in paragraph 2.

5 – The decision of the Arbitral College takes effects immediately after its notification to the representatives referred to in paragraph 2 and shall be affixed at the facilities of the body or service, in the places usually intended to workers' information.

6 – The workers' representatives shall designate the workers who are assigned to the provision of services referred to in the preceding article, until 24 hours before the commencement of the period of strike, and, if they do not do so, the public employer shall make such designation.

7 – The definition of essential services shall abide by the principles of the need, appropriateness and proportionality.

Article 399

Scope of application of the arbitral decision

1 – In cases in which the employer is subject to the present law, the definition of essential services shall be made under the terms of the present section, and the arbitral decision shall be applicable to all workers regardless of the nature of the respective employment relationship.

2 – In cases in which the employer is outside the scope of application of the present law, the definition of essential services shall be made as per the Labour Code and respective complementary legislation, and the arbitral decision shall be applicable to all workers regardless of the nature of the respective employment relationship.

SECTION II

Arbitration of essential services

SUBSECTION I

Designation of arbitrators

Article 400

Setting up and composition of the Arbitral College

1– On the fourth day subsequent to the prior notice of strike, the member of the Government responsible for public administration area declares the Arbitral College set up, by notifying the parties and the arbitrators.

2 – For the setting up of the Arbitral College provided for in the preceding paragraph, each one of the lists of arbitrators of workers, public employers and presidents shall be ordered alphabetically.

3 – The drawing of lots of the full arbitrator and the substitute arbitrator shall be made through so many numbered balls as the arbitrators who are not legally prevented, in the concrete case, corresponding to each number the name of an arbitrator.

4 – The balls referred to in the preceding paragraph are all drawn lots, the first one corresponding to the full arbitrator and the others to substitute arbitrators.

5 – The DGAEP shall notify the representatives of the workers 'party along with the public employers' party on the day and hour of the drawing lots, within a minimum 24 hours in advance.

6 – If one or both the representatives shall not be present, the DGAEP designates workers of this directorate general, in equal number, to be present at the drawing lots.

7 – The DGAEP draws up the minutes of the drawing lots, which shall be signed by those attending and immediately reported to the parties concerned.

8 – The DGAEP shall immediately report the result of the drawing lots to the arbitrators that make up the arbitral court, to substitute arbitrators and to the parties that have not been represented at the drawing lots.

9 – The member of the Government responsible for public administration area may still determine that the decision on essential services shall be taken by the Arbitral College that has pending the appraisal of other strike whose period and geographical and sectoral scope are total or partially coincident, and if there is a favourable opinion of the college in question.

SUBSECTION II

Functioning of the arbitration

Article 401

Impediment and suspicion

1 – Any of the parties may submit request for impediment of the arbitrator designated and this one may submit request for excuse immediately after the reporting provided for in the preceding article.

2 – In view of the request for impediment or excuse, and if there is no opposition of the parties, the replacement of the arbitrator concerned by the respective substitute arbitrator shall be immediately carried out.

3 – If there is opposition of the parties, the President of the Economic and Social Council shall decide on the request for impediment or excuse.

Article 402

Arbitration procedure

1 – The arbitration begins immediately after the notification of the arbitrators drawn lots, and may be developed in any day of the schedule.

2 –The arbitral court shall notify the parties so that they submit, in writing and in the time limit, indicated their understanding on the definition of essential services and the means necessary to ensure them, and the parties may join the documents which they deem as relevant.

3 – The arbitral court may convene the parties to hear them on the definition of essential services and the means necessary to ensure them.

4 – The arbitral court may be assisted by experts.

5 – After three decisions taken in the same direction, in cases where the parties are the same and whose elements relevant for the decision on essential services to be provided and the means necessary to ensure them are identical, and if the last decision has been taken for less than three years, the arbitral court may, in equal circumstances, decide immediately in this way, dispensing with the hearing of the parties and other preliminary examination inquiries.

Article 403

Reduction of the arbitration

1 – In the case of partial agreement, focusing this one on the definition of essential services, the arbitration continues in relation to the means necessary to ensure them.

2 – In the case of the parties reaching an agreement on all object of the arbitration, this one shall be deemed terminated.

Article 404

Decision

1 – The notification of the decision shall be made until 48 hours of the commencement of the strike period.

2 – The final decision of the Arbitral College shall be substantiated and shall be made in writing, of which shall include:

a) The identification of the parties;
b) The object of arbitration;
c) The identification of arbitrators;
d) The place of the arbitration and date in which the decision has been taken;
e) The signature of the arbitrators;
f) The indication of the arbitrators who were unable to sign.

3 – The decision shall contain a number of signatures, at least, equal to the most of arbitrators and includes the minority votes, duly identified.

4 – The arbitral decision is equivalent to a first instance judgment, for all legal purposes.

5 – Any of the parties may request the Arbitral College the clarification of some obscurity or ambiguity of the decision or of their grounds, as per the terms provided for in the Civil Procedure Code, within the 12 hours following its notification.

6 – The arbitral decisions are the object of publication on DGAEP's website.

Article 405

Subsidiary system

The arbitration system necessary provided for in the present law and the arbitration system of essential services provided for in the Decree-Law No 259/2009, of 25 September are additionally applicable.

Article 406

Lock-out

1 – Lock- out shall be prohibited.

2 – Lock-out is considered to be any unilateral decision of the public employer that is translated in the total or partial stoppage of the body or service or in the ban on the access to workplaces to some or all workers and, still in the refusal to provide work, conditions and working tools that determines or may determine the stoppage of all or some sectors of the body or service or provided that, in any case, aims to achieve unrelated purposes to the regular activity of the body or service.

ANNEX

(Which refers the paragraph 2 of article 88)

Characterization of general careers

Career	Categories	Functional content	Functional complexity grade	Pay steps number
Professional	Professional	Advisory functions of study, planning, programming, assessment and application of methods and procedures of a technical or scientific nature, justifying and preparing the decision. Giving opinions and drawing up drafts autonomously or in group with different complexity degrees, and carrying out other activities of general or specialized support, in the common, instrumental and operative action areas of bodies and services. Functions fulfilled with responsibility and technical autonomy even though within higher qualified framework. Representation of the body or service concerning issues of his/her skill, making choices, of a technical nature, under directives or superior guidelines.	3	14
Administrative Staff	Technical coordinator	Technical and administrative lower level managerial functions in one organic subunit or support team for whose results is responsible. Carrying out programming and staff work organization activities coordinated in accordance with directives and superior guidelines. Carrying out of higher complexity works of a technical and administrative nature. Functions fulfilled with relative autonomy and responsibility degree.	2	4
	Administrative staff	Performing functions, application of methods and procedures based upon well-defined guidelines and general instructions of middle complexity degree, in common action and instrumental areas and in different fields of action of bodies and services.	2	9

Auxiliary Staff	General operational officer	Chief staff functions of the Auxiliary Staff career. General coordination of all tasks carried out by the staff assigned to activity sectors under his/her supervision.	1	2
	Operational officer	Coordination functions of assistants operational assigned to his/her activity sector for whose results is responsible. Carrying out tasks related to programming, organization and control of work to be performed by staff under his/her coordination. Replacement of the chief general in his/her absences and impediments.	1	5
	Auxiliary staff	Performing functions, of a manual or mechanical nature, under well-defined general guidelines and with variable complexity degree. Carrying out of tasks of elementary support, indispensable to the functioning of bodies and services, which may entail physical support. Responsibility for equipment under his/her care and for its proper usage, and carrying out whenever necessary the maintenance and repair thereof.	1	8