

# Ministerio de Justicia



**ACT 38/1988, 28 DECEMBER, ON  
DEMARCATIONS AND ORGANISATION  
OF THE JUDICIAL INSTITUTIONS.**

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**LEY 38/1988, DE 28 DE DICIEMBRE,  
DE DEMARCACIÓN Y DE PLANTA JUDICIAL**

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## **ACT 38/1988, 28 DECEMBER, ON DEMARCATIONS AND ORGANISATION OF THE JUDICIAL INSTITUTIONS.**

JUAN CARLOS I

KING OF SPAIN

To all whom this Act shall be seen and understood,

be it known that: The Spanish Parliament has approved this Act and I do enact the same as follows:

### **PREAMBLE**

#### **I**

The Organic Act 6/1985 of 1 July on the Judiciary constitutes the regulatory basis of the fulfilment of the purposes which have been constitutionally assigned to the Judiciary in the social and democratic State under the rule of Law.

This Organic Act has given full content to the principles of independence, fullness and unity of the jurisdiction, guarantee and rule of law. In addition, said Act has given effect to the Judiciary self-government, highlighting the constitutional nature of the General Council of the Judiciary. Also, said Act has drafted, under a new and secure basis for an affective judicial protection, the Regulation for Judges, Senior Judges and Court Clerks and the remaining personnel at the service of the Judicial Administration.

However, the Organic Act on the Judiciary includes other provisions which common denominator resides in the need of a complex legislative, organisational and financial development, as said Organic Act entails the creation of Courts with a new organisation, the significant increase of the existing Courts and, in some cases, the change of their nature, competency or constituency to which its jurisdiction extends.

The Present Law, within the principles and purposes presented, fulfils the additional provision one of Organic Act on Judiciary in relation to the legislative regulation of the demarcation and organization of the judicial institutions. The amendment of the legislative regulation of the process in the different Courts, which is carried out at the same time and in the same development context of the Organic Act of the Judiciary, constitutes the indispensable complement of the said Act.

The judicial demarcation has been carried out taking into account the proposals of the Autonomous Communities. The Bill has been subject to the report of the General Council of the Judiciary, fulfilling in both cases, the expectations of the Organic Act on



the Judiciary. The comments made have had a great value and have increased significantly the knowledge of the data and the necessary circumstances for taking an appropriate decision.

## II

The social and democratic State under the rule of Law, in search for an effective and real content in the rights of the citizens, insists in the effectiveness of the judicial protection of the rights, which is presented as a specific fundamental right in Article 24 of the Constitution.

Therefore, the appropriate development of Organic Act on the Judiciary shall confront, firstly, the huge shortfall accumulated during decades due to a judicial system structured according to its presence and not its effectiveness. A judicial system which has been distributed according to imperfect and unbalanced geographical criteria and which is understaffed relating the number of judges and decision-making bodies, with the subsequent lack of personnel and economic resources at its service as well as the inappropriate rules of procedure which govern the same.

Secondly, the highest degree of social requirements for the effective functioning of justice shall be added to the historical shortfall of the justice, which against and in contrast with the traditional indifference, leads to the proclamation of the constitutional system of the social and democratic State under the rule of Law. Furthermore, the phenomenon such as the tendency to overuse court procedures for solving problems of the State and the social life, the greater public awareness of the rights and the guarantee of their real content, the extinction of the social and political bonds which restricted the personal liberty and the right to a fair trial, the democratic control of the functioning defects of all public institutions, the escalating social conflict originated from the increasing demographic complexity and the economic crisis episodes, and the culmination of the State under the rule of Law through the recognition of the normative value of the Constitution, have lead over the last years to a substantial increase of litigation.

Said increase affects specially the areas of law which are more influenced by the socioeconomic conflict and the guarantee of the rights of citizens towards the public, criminal and contentious-administrative powers, without disregarding the increasing of civil and labour cases.

## III

Although the definitive update of the Judiciary infrastructure, according to the needs of the current society, requires a normative programming through this Act, the public authorities have initiated during the last decade a decisive action to increase its resources, overtaking the basis of the quantitative and qualitative transformation of the infrastructure, which shall reach its full development with this Act.

The budget exclusively allocated to the Judicial Administration are doubled from 1982 to 1987. Only during the period from 1987 to 1988, the increase is approximately in one third.

Thus has made possible to carried out an important work for dealing with the initial provision of the normative proposed, which has giving as a result, during said quinquennium, the effective functioning of more than three hundred judicial bodies with personnel and material resources at their service. The aforementioned represents the accelerated establishment of a judicial body each week, on average. Referring only the sole judge courts, on the different areas of Law and on said period, the number of Employment Tribunals functioning is a fourth part of the total corresponding to said bodies existing in Spain to date. In relation to the civil and criminal bodies, the great number of Instruction Courts, First Instance Courts and First Instance and Instruction Courts functioning has allow to change the correlation corresponding to 1980 of 73,010 inhabitants per Court, the worst rate since 1877, which was 34,434 inhabitants per Court, to a proportion of 55,726 inhabitants per Court in 1985. Thus shows that not only the level corresponding to the last two decades has been recovered but also, and what is more significant, that we are investing decidedly in the incessant and interrupted historic process of deterioration of said rate , which on 1988 will reach the figure of 50,958 inhabitants per Court.

#### IV

The new judicial territorial division does not entails significant problems in the autonomous, provincial and municipal areas, therefore, in relation to the judicial demarcation, the present Act just ratifies the territorial scope of the jurisdiction of the different bodies in the autonomous, provincial and municipal levels. The territorial scope is a result of the corresponding constituencies already established for political-administrative purposes.

On the contrary, the present Act is intended primarily to redefine the judicial districts in relation to the basic judicial territorial divisions in which the first level of judicial bodies served by qualifies judges are places, meaning the First Instance and Instruction Courts, This Act respects the competence of the Autonomous Communities for establishing the capital of said districts.

The effectiveness by which Article 24 of the Constitution establishes the right to obtain protection from the Judges and Courts of the legitimate rights and interests of the citizens have required to have in mind, firstly, the guarantee of easy access of the citizens to the Courts and, secondly, the need to avoid an excessive dispersion of the human and material resources, which shall break the principles of rationality and economy by which every effective organisation is governed. Therefore, for achieving such purposes, it starts with a trend towards concentration to the extend necessary, and subsequently, a general tendency towards the district division of the services. Thus shall contribute to the appropriate coordination among said services and their better use by the citizens.

As general model of judicial district, a general constituency of circular configuration has been taken, which ideal minimum is 50,000 inhabitants and an average area from 700 to 1,000 square kilometres, meaning, 15 kilometres of radius, as this distance is considered, in the beginning, to be easily travelled in the current means of communication. The figure of inhabitants is given by the fact that the ideal number of inhabitants per Court is 25,000. This proportion has never been reached in our history.



Likewise, it has been deemed appropriate that the judicial districts, when possible, shall be provided with a minimum number of First Instance and Instruction Courts in order to ease the replacement and the division of the workload among the Judges, particularly in criminal judicial bodies. The establishment of said Courts shall allow the rational use of the services from the economic point of view.

Said Courts shall be provided with a judicial office organised optimally for the convenience of the professionals and citizens. The aforementioned parameters, apart from their adjustment depending on the litigation volume, the communications and the orography and regional characteristics, have suffered significant alterations by virtue of the characteristics of the population of each area. Therefore, the area of the judicial districts corresponding to places with an urban, industrial and tourist accumulation has been significantly reduced as the population could be permanent or seasonal, which make its registration quite complex. However, the population level of these judicial districts is usually very high. Nevertheless, the judicial districts in which the population density is very low, as consequence of the depopulation phenomena or because said areas are hardly habitable, have their areas significantly increased, however, the ideal minimum figure population is not reached.

The demarcation established in this Act cannot entail a transposition in judicial districts of the current circuit jurisdictions, as the Organic Act on the Judiciary, in its transitional provision three, provides that the District Courts shall not be kept when due to the limited volume of workload, said Courts shall be converted into Magistrates' Court. Nevertheless, although the examination of the existing situation when Organic Act of the Judiciary is issued emphasizes that the implementation of the District Justice does not have the same penetration rate in all the areas within national territory, attempts to maintain as judicial districts those circuits that, even below the average unit, gather special conditions, taking into account specially those which generate a significant volume of litigation or are located in municipalities with a high population, providing their proximity to the capital of other district or the difficulties for configuring the same do not advise the contrary. Consequently, the demarcation approved disregards all those interests that are not compatible with the principle of efficiency of justice, which is the only aim of this Act. Said demarcation, through the establishment of objective parameters, duly abides the criteria established in the Organic Act of the Judiciary.

In short, 105 new judicial districts are created and added to the 317 which currently exists. Therefore, the total amount of judicial districts is 422, a figure which coincides exactly with the number of judicial districts of the historical demarcation which existed when issuing the Act of 1870, what reveals the high level of equilibrium of the territorial divisions achieved, even though, as will be seen, the population increase affects significantly the number of judicial bodies of each constituency and the whole group with regards the employees of the judiciary of the historical demarcation.

## V

As this Act configures completely the organisation designed by the Organic Act on the Judiciary, it brings together the different legal fields in a balanced manner, making possible the principle of jurisdictional unity. At the same time, the present Act confirms the expanding nature of the civil field, the principle of guarantee of the fundamental



rights in the criminal filed, the will of the Executive of making possible an effective jurisdictional control of its administrative action in the contentious-administrative filed. In addition, the Executive wants the labour filed to carry out an effective protection of the claims presented in this area of Law. All different legal fields, with the adjustment imposed for each one by their peculiar purposes within the generic framework of the judicial competence, are organised with a similar structure which is based as follows. A first instance or functional degree before a single judge body, a second instance or functional degree before a collegiate body and an appeal to the Supreme Court which main purpose is to unify the interpretation of the Law and to safeguard the principle of legality.

## VI

The Supreme Court, which is the highest judicial body in all the legal files, except as provided for constitutional guarantees, constitutes the body of constitutional relevance which culminates the organization of the Judiciary. Therefore, this Act devotes special attention to the same.

In relation to the organization of the Supreme Court, the composition of the different Chambers has been slightly balanced in favour of the criminal one. However, the total number of Judges is similar to the current one. In fact, it has been considered that the constitutional prohibition of the subsequent extraterritorial instances means to entitle the Supreme Court, as highest body in all the legal fields and with jurisdiction within all Spanish territory, the status of a Court with specifically appealing functions, save as otherwise provided in some exceptions by Organic Act due to special reasons duly justified.

The appeal to the Supreme Court is a special appeal, and therefore, the same is limited, meaning that the same cannot be presented in a second or third instance. The procedural regulation of the same, established appropriately, shall allow the Supreme Court, without converting the same in a body with a complex functioning through an artificial and disproportionate increase of its judges, to fully assume, thank you to the appropriate objective selection of the subject heard at the same, its function for unifying the interpretation of the set of acts carried out by all the Courts assuming its nature of supreme guarantor of the principle of legality and the unity of action of the Judiciary in its whole. The significance of this function for the compliance of the principle of equality and the constitutional role of the Judiciary cannot be ignored.

## VII

Likewise, among the collegiate bodies, the immediate establishment of the Labour Chamber of the National High Court is highlighted. The same shall keep in the line of exclusive governmental nature of the applicable law the unified interpretation within all the Spanish territory in subjects as worthy of our attention as the conflicts and collective agreements, which scope is beyond the autonomous community. Additionally, the Criminal and Contentious-Administrative Chambers of the National High Court are composed by a sufficient number of Judges for developing their corresponding competence.



The regulation of the High Courts of Justice has been carried out in such a manner that their expeditious functioning respect the right of the Legislative Assembly of the Autonomous Communities, which is recognised in the Organic Act on the Judiciary, to intervene in the assignation of some of the Judges who composed the aforementioned Court. This right has been subject to the most favourable interpretation concerning its application, among the different interpretations. Particular emphasis has been placed on the appeal capacity assigned to the High Courts of Justices, as bodies which culminate with the organization of the judicial organisation in the Autonomous Community. The integrity of said capacity has been guaranteed through a rule of transitional effect while the corresponding procedural acts are approved.

In the same section, special attention shall be conferred to the Provincial Courts, which are composed by a sufficient number of Senior Judges to confront with the criminal and civil cases which the same shall assume after the issuing of Organic Act. The basis for instituting the Jury are established. The Jury is an institution with acts within the scope of the Provincial Courts. The same contributes to accelerate the criminal justice. For said purpose, other legislative measures are undertaken at the same time to achieve an adjustment in the competencies and workload of the different bodies. Said measures shall contribute to release the High Courts of Justice from an excessive number of appeals, something that would threaten to destabilise its regular functioning.

## VIII

In relation to single judge courts, the Act converts the District Courts into First Instance Courts, Instruction Courts or First Instance and Instruction Courts within the period provided by Organic Act on the Judiciary. This measure, which was already requested by the General Council of the Judiciary in 1985, is provided by Organic Act of the Judiciary. The same affects the Courts which are historically linked to a Body abolished by the application of the constitutional principle of unity of Judicial Service, which access is through certain systems. This measure shall avoid different Judges to follow same subject without an appropriate functional organisation through instances without further justification that the different theoretical significance of the case. This measure shall reinstate the unity of the first technical instance, reintroducing to said instance its expansive and combine role without which a first civil instance and a first functional step in criminal matters with enough level of internal consistency are difficult to build. This conversion, due to its novelty, may suppose difficult to adapt. Said difficulties shall be avoided with the procedural measures undertaken at the same, particularly for guaranteeing the exclusive jurisdictional nature of the functions which exercise lays on the first instance bodies.

On the other hand, the Act includes the necessary dispositions to organise the Criminal Courts derived from Organic Act on Criminal Courts, which modifies the provisions provided in Organic Act on the Judiciary and Criminal Procedure Act. Thus shall make real the difference between the committal and judging function requested by Article 24 of the Constitution according to the interpretation given by the Constitutional Court and the European Court of Human Rights. For such purpose, the Act drafts an organisation of the Criminal Court appropriate to confront the needs that, foreseeably, shall be presented before said bodies of the criminal field.

For the organisation of the Instruction Courts, a special attention has been given to the functions corresponding to said Courts in instruction and first instance matters in the future configuration of the criminal process. However, the Labour Court are sufficient in number in order to deal with the workload expected from a critical review of the statistical data at their disposal.

For the remaining legal fields, a special attention has been given to sectors and social activities which, nowadays, constitutes areas which are materially exempted or which are not attended by the jurisdiction with the sufficient strength and degree of specialization. Said principle is observed in the establishment of Contentious-Administrative Courts (which shall be an effective first instance in cases that, functionally, this system is more beneficial or in cases which are excessively burdensome to be followed in a Chamber, as some economic-administrative matters), Prison Vigilance Courts and Minors' Courts. In relation to the Minors' Courts, the organisation of the same offers the maximum opportunities to specialise the amendment function concerning the child protection function, making possible, from the legal system point of view, the effectiveness of the amendment of the child law, being this Act its necessary complement.

Finally, the close proximity between the organisation designed and the proposal for the same in report from the General Council of the Judiciary shall be highlighted.

Organic Act on the Judiciary considers the Magistrates' Courts as bodies which operate at a local level, which magistrates in charge are appointed by the Plenary Meeting of the City Council. Hence, the traditional collaboration of the municipalities in the maintenance of the personnel and material resources of said bodies continues, being the economic support established directly or through subsidies granted by the State or the Autonomous Communities.

## IX

In this Act, the number of Judges and Senior Judges in destinations strictly jurisdictional is 3,570, meaning that the proportion of one member of the Judicial Service per 10,800 inhabitants is established. This proportion, notwithstanding its variations, is similar to the proportions of other countries of the European Community. The proportion of First Instance and Instruction Courts and Criminal Courts is one per 19,000 inhabitants, being an average rate very satisfactory and never reached in our history. Taking into account that the number of Judges and Senior Judges currently working in the Judicial Service is 2,000 approximately, a great effort is necessary for obtaining the maximum efficiency of the selection system during the programming years of the new judicial organisation. For this purpose, the Centre of Judicial Studies has been reorganised, the competitive examination has been deeply reformed and the selection criteria for Judges and Senior Judges has been given effect through a competitive exam among jurists.

## X

The organisation established is subject of the appropriate interim forecast for its execution. The effective establishment of the different bodies is organised by stages,



taking into account the real possibilities of implementation and assigning the Government the preparation of the necessary economic-financial programs.

The period from 1989-1992 is fixed as maximum planning period, within which all the provisions for the organisation provided by the Act shall be completely fulfilled. The same is a fixed deadline which, with a great organisational and financial effort, is sufficient for organising the necessary measures to make real the deep updating that this Act entails for the structure of the Judicial Administration due its urgent need. Gradual organic and financial measures are expected for guaranteeing the fulfilment of the deadline established. Said measures are necessary for avoiding a failure in the implementation processes. In addition, the corresponding guarantees are established for assuring the budgetary coverage through the appropriate financing plan. During each year, the corresponding bodies shall be created to achieve the equilibrium desired in the implementation of the program without waiting for the last period and continuing in the same line followed the previous years.

However, the demarcation and the organisation established, according to enough criteria for guaranteeing its continuation during a long period of time, is subject to measures for a better adaptation and perfection. Regardless the periodic general revisions of the organisation and the demarcation as provided in the Organic Act on the Judiciary, the authority for the Government to create Divisions, Courts and positions for Senior Judges above the expectations for the organisation established, modifying the same, is regulated and developed. In any case, this measure shall allow the permanent quantitative updating of the organisational design established in the Organic Act on the Judiciary in accordance with the new needs that may arise.

## **TITLE I**

### **Judicial Demarcation**

#### **SECTION I**

##### **Territorial constituency of the judicial bodies**

###### **Article 1.**

The Supreme Court, the National High Court, the Central Instruction Court, the Central Criminal Court, the Central Contentious-Administrative Courts, the Central Prison Vigilance Courts and the Central Minors' Court have jurisdiction throughout the Spanish territory.

###### **Article 2.**

**1.** The High Courts of Justice have jurisdiction in the territorial scope corresponding to Autonomous Community in which are established.

**2.** The jurisdiction of the Contentious-Administrative and Labour Chambers of the High Court of Justice of Andalucía, which are located in Sevilla, is limited to the provinces of Cádiz, Cordoba, Huelva and Sevilla. The jurisdiction of the aforementioned Chambers located in Granada is limited to the provinces of Almería, Jaén and Granada. The Contentious-Administrative and Labour Chambers of High Court of Justice of Andalucía located in Málaga have jurisdiction only in the Málaga province.

**3.** The jurisdiction of the Contentious-Administrative and Labour Chambers of the High Court of Justice of Castilla y León located in Valladolid, extends over the provinces of León, Palencia, Salamanca, Valladolid and Zamora. The Chambers located in Burgos have jurisdiction over the provinces of Ávila, Burgos, Segovia and Soria.

**4.** The jurisdiction of the Contentious-Administrative and Labour Chambers of the High Court of Justice of Canarias located in Las Palmas de Gran Canaria is limited to the province of Las Palmas. The aforementioned Chambers located in Santa Cruz de Tenerife have jurisdiction over the province of Santa Cruz de Tenerife.

**5.** For judicial demarcation purposes, the autonomous cities of Ceuta and Melilla are included in the territorial constituency of the High Court of Justice of Andalucía.

###### **Article 2 bis.**

**1.** In accordance with Article 347 bis of Organic Act on the Judiciary, in each High Court of Justice and for the territorial scope of the Province, positions for Judges assigned to said territory is fixed in Annexe IV of this Act.



2. The subsequent development of said positions for Judges assigned to said territory as well as their modification shall be exercised through a Royal Decree in accordance with Article 20 of this Act.

### **Article 3.**

1. The Provincial Courts, Criminal Courts, Contentious-Administrative Courts, Labour Courts, Prison Vigilance Courts, Minors' Courts and Mercantile Courts have jurisdiction over the territorial scope corresponding to the province in which are located.

2. However, the jurisdiction of the aforementioned Courts can be limited to one or some judicial districts or being extended to several provinces in accordance with the circumstances provided in the Annexes VII, VIII, IX, X, XI and XII of this Act.

3. For judicial demarcation purposes, the autonomous city of Ceuta is included in the territorial constituency of the Six Division of the Provincial Court of Cádiz, which is located in Ceuta. The autonomous city of Melilla is included in the territorial constituency of the Eight Division of the Provincial court of Málaga, which is located in Melilla.

4. The jurisdiction of the judicial bodies located in Ceuta and Melilla is limited to the corresponding judicial district.

5. In the cases in which the Annexe V of this Act foresees the existence of Divisions of a Provincial Court out of the provincial capital, the jurisdiction of said Divisions extends over the judicial districts that, according to said Annexe, are assigned to the same.

6. The Mercantile Courts of Alicante specialised in a particular field shall have jurisdiction to hear at first instance and exclusively all those lawsuits filed pursuant to the Regulations No. 40/94 of the Council of the European Union, 20 December 1993, on Community Trade Mark and No. 6/2002 of the Council of the European Union, 12 December 2001, on Community Design. During the exercise of said competence, the Courts shall extend their jurisdiction throughout Spanish territory and, only for said purposes, said Courts shall be referred as Community Trade Mark Courts.

7. The Divisions or Divisions of the Provincial Court of Alicante specialised in a particular field shall heard in second instance and exclusively all those appeals referred in Article 101 of Regulation No. 40/94 of the Council of European Union, 20 December 1993, on Community Trade Mark and in the Regulation No. 6/2002 of the Council of European Union, 12 December 2001, on Community Design. During the exercise of said competence, the aforementioned divisions shall extend their jurisdiction throughout Spanish territory and, only for said purposes, the divisions shall be referred as Community Trade Mark Courts.

### **Article 4.**

1. The First Instance and Instruction Courts and the Violence against Woman Courts have jurisdiction over the territorial scope of their corresponding district.

Notwithstanding the foregoing, and taking into account the geographical, location and population circumstances, Violence against Woman Courts with jurisdiction over more than one district may be established.

**2.** The judicial districts have the territorial scope of the municipality or municipalities that composed the same in accordance with Annexe I of this Act.

**3.** The modification of the boundaries of the current municipalities entails the automatic adaptation of the judicial district to the new geographical delimitation.

For the purposes provided by the previous paragraph, the following rules shall be followed:

a) When a new municipality is created due to its segregation from another one, the segregated municipality shall remain in the same judicial district.

b) When two or more municipalities of the same judicial district merge or incorporate among them, the new municipality shall remain in the same judicial district.

c) When two or more municipalities of different judicial districts merge or incorporate among them, the new municipality shall be included in the judicial district corresponding to the municipality, among the ones concerned, with the higher number of inhabitants officially registered.

d) When a new municipality is created by the segregation of part of the territory corresponding to municipalities with different judicial bodies, the new municipality shall be integrated in the judicial district of the segregated part with a higher number of inhabitants officially registered.

e) When a municipality adds part of the territory corresponding to an adjacent municipality due to segregation, the segregated territory shall be included in the judicial district of the municipality in which has been added.

**4.** In provided by Law, the Autonomous Communities shall determine the capital of the judicial districts. Only one municipality holds the status as capital.

**5.** The judicial districts are identified by the name of the municipality which holds the status as capital.

#### **Article 5.**

The Magistrates' Court have jurisdiction in the municipal district corresponding to its municipality. Said Courts shall be named as the municipality in which are located.

## **SECTION II**

### **Location of the judicial bodies**

#### **Article 6.**

The Supreme Court, the National High Court, the Central Instruction Courts, the Central Criminal Courts, the Central Contentious-Administrative Courts, the Central Prison Vigilance Courts and the Central Minors' Courts are located in Madrid.

#### **Article 7.**

**1.** The High Courts of Justice are located in the city indicated by the respective Autonomous Community Statutes. On the contrary, the High Courts of Justice shall be located in the city in which the Regional Court is located when Organic Act on the



Judiciary enters into force. In the absence of the same, the High Courts of Justice shall be located in the capital of the Autonomous Community.

**2.** The High Courts of Justice of Castilla y León and Andalucía are located in any of seats corresponding to the Regional Court when Organic Act on Judiciary enters into force in accordance with what is established by the Autonomous Community.

**3.** The Contentious-Administrative and Labour Chambers with jurisdiction limited to one or more provinces are located in the place established by Article 2 of this Act.

#### **Article 8.**

**1.** The Provincial Courts and the Courts with provincial jurisdiction are located in the provincial capital.

**2.** The Divisions of the Provincial Courts referred in the Article 3.5 of this Act as well as the Criminal Courts, Contentious-Administrative Courts, Labour Courts, Minors' Courts, Mercantile Courts and Violence against Woman Courts which jurisdiction extents over the territorial extension inferior or superior to the one corresponding to a province, are located in the capital of the district assigned by Law of the corresponding to the Autonomous Community. Said Court shall be named as the name of the municipality in which are located.

**3.** The location of the Prison Vigilance Courts are established by the Government, after consulting the Autonomous Community affected and the General Council of the Judiciary.

#### **Article 9.**

The First Instance and Instruction Courts and the Violence against Woman Courts are located in the capital of the judicial district.

#### **Article 10.**

**1.** The decision about the building, buildings or properties in which are established the judicial bodies or those building or properties in which the same shall be established when the judicial bodies are moved from their usual location is taken by the Ministry of Justice or the corresponding Autonomous Community. In relation to Magistrates' Courts, the decision is taken by the corresponding City Council.

**2.** The Chambers and the Divisions of each judicial body are located in the municipality their judicial body is located, except the cases provided in this Act.



## **TITLE II**

### **Organisation of the Judicial Institutions**

#### **SECTION I**

##### **Organisation of the Courts**

###### **Article 11.**

The organisation of the Supreme Court is provided in Annexe II of this Act.

###### **Article 12.**

1. The organisation of the National High Court is provided in Annexe III of this Act.
2. The President of the Criminal Chamber and the President of the Contentious-Administrative Chambers are also Presidents of the corresponding First Division.

###### **Article 13.**

1. The organisation of the High Courts of Justice is provided in Annexe IV of this Act.
2. The President of the High Court of Justice is also President of its Civil and Criminal Chamber. The remaining Senior Judges of said Chamber, one of them in case the same is composed by two; or two of them in case the Chamber is composed by four, are appointed from a list of three candidates proposed by the Legislative Assembly of the Autonomous Community as provided in Article 330 of the Organic Act on Judiciary.
3. Previous report from the General Council of the Judiciary, the Government can extent the number of Senior Judges of the Civil and Criminal Chamber up to five in all or some High Courts which have assigned three Senior Judges for said Chamber.

###### **Article 14.**

1. The organisation of the Provincial Courts is provided in Annexe V of this Act.
2. The Divisions of the Provincial Courts, when more than one, are composed by three Senior Judges. In those divisions which number of senior judges exceed a multiple of three, the exceeding senior judges shall be assigned in the existing Divisions, being one per Divisions and starting from the First Division. The creation of new positions for Senior Judges in a Provincial Court shall entails, if appropriate, the creation of a new complete Division. Said Division shall be completed with the new positions created and those positions result of the reduction of the senior judges in one or more Divisions to three. For appointing Senior Judges from other Divisions to the new one created, the appointment shall be carried out among those who have requested the same and which are already assigned to remaining Divisions of said body and have a better

position in the category. In case of absence or a lack of applicants who compile the legal requirements for said positions, the criteria of lesser seniority shall be applied. The provisions of this paragraph shall apply without prejudice of what is provided by Article 20.3 of this Act.

#### **Article 15.**

**1.** The organisation of the Central Instruction Courts, the Central Criminal Courts, the Criminal Courts, the First Instance Courts, the Instruction Courts and the First Instance and Instruction Courts is provided in Annexes VI and VII of this Act.

**2.** The Criminal Courts, the Courts which are located at the provincial capital and the Courts provided in Annexe VI are served by Senior Judges.

#### **Article 15 bis**

**1.** The initial organisation of the Violence against Woman Courts is provided in Annexe XIII of this Act.

**2.** The settlement of the initial organisation and its subsequent development shall be carried out through a Royal Decree in accordance with Article 20 of this Act. Said organisation shall meet the following criteria:

a) Violence against Woman Courts can be created in those judicial districts in which the workload advised so.

b) In those judicial districts in which the workload in relation to said cases is not deem high enough for implementing the organisation of the aforementioned Court, some functioning Instruction Courts and First Instance and Instruction Courts can be converted into Violence against Woman Courts.

c) Likewise, when due to the workload is not considered necessary to create an specific judicial body, it shall be determined which Instruction, First Instance and Instruction Courts, if more than one, shall heard exclusively the cases related to violence against woman in accordance with the terms provided in Article 1 of Organic Act on Comprehensive Protection Measures against Gender-based Violence together with the cases corresponding to the criminal or civil jurisdiction, depending on the nature of said body.

**3.** Violence against Woman Courts which are located in the provincial capital and the remaining Courts provided in Annexe XIII of this Act shall be served by Senior Judges.

#### **Article 16.**

The organisation of the Central Contentious-Administrative Courts and the Contentious-Administrative Courts is provided in Annexe VIII of this Act.

#### **Article 17.**

The organisation of the Labour Courts is provided in Annexe IX of this Act.

**Article 18.**

1. The organisation of the Central Prison Vigilance Courts and the Prison Vigilance Courts, on an exclusive functions basis or coordinating said exclusive functions with the ones of the criminal jurisdiction, is provided in Annexe X of this Act.

2. The Prison Vigilance Courts are served by Senior Judges. In the case provided in Article 94.4 of the Organic Act on Judiciary, the category of their judges in charge is the one which corresponds to the First Instance and Instruction Courts of the judicial district in which the said Courts are located.

**Article 19.**

1. The organisation of the Central Minors' Court and the Minors' Courts is provided in Annexe XI of this Act.

2. The Central Minors' Court and the Minors' Courts shall be served by Senior Judges.

3. The recruitment of Senior Judges for the aforementioned Courts is carried out by competition based on the qualifications. The same is resolved in favour of those that proved the corresponding specialisation in the Judicial School and have a better position in the category.

**Article 19 bis.**

1. The initial organisation of the Mercantile Courts is provided in Annexe XII of this Act.

The settlement of said initial organisation and its subsequent development shall be carried out through a Royal Decree in accordance to what is provided in Article 20 of this Act. Said organisation shall meet the following criteria:

a) Creation of Mercantile Courts

1°) Mercantile Courts located in the provincial capital and jurisdiction in all the province may be created when the workload advise so.

2°) Mercantile Courts may be established in different municipalities of the provincial capital if the population, industrial and mercantile criteria advise so. Said Courts shall have jurisdiction in one or several judicial districts.

b) Conversion of First Instance Courts and First Instance and Instruction Courts into Mercantile Courts.

In those provinces in which due to the workload an extension of the judicial organisation is not necessary, some of the First Instance Courts and First Instance and Instruction Courts shall be converted into Mercantile Courts.

c) Harmonisation. The same Court may hear mercantile cases as well as the remaining cases corresponding to the civil jurisdiction.

In those circumstances in which the workload advise so, the mercantile cases and the remaining cases corresponding to the civil legal field shall be hear at the same Court.

2. The Mercantile Courts are served by Senior Judges.

3. The recruitment of Senior Judges for the Mercantile Courts is carried out by competition based on the qualifications. Said competition shall be resolved in favour of those who proved the corresponding specialisation in the matters to be heard at said Court, which is obtained after passing the corresponding selection tests regulatory determined by the General Council of the Judiciary and has a better position in the category. On the contrary, the Senior Judges who proved the longest period for service within the civil legal field shall occupy the positions.

In the absence of the same, the applicants shall be chosen by seniority according to the Article 329.1 or Organic Act on the Judiciary.

## SECTION II

### Modification of the organisation of the Judicial Institutions

#### Article 20.

1. The Government may modify the number and composition of the judicial bodies established by this Act by creating Divisions and Courts without altering the judicial demarcation after consulting the General Council of the Judiciary and, if needed, the Autonomous Community concerned.

At the request of the Ministry of Justice, previous report from the General Council of the Judiciary and after consulting, as mandatory, the Autonomous Community concerned, Courts of the same location be converted into Courts of a different kind, if same location, by a Royal Decree, notwithstanding its legal field.

When the converted Court is still functioning and has pending proceedings, the same shall continue with its competence on the same until the proceedings are concluded.

2. In the creation of Divisions and Courts, the litigation volume of the territorial constituency shall be taken into account, preferably.

3. The Government, following the same criteria, shall decide to increase of positions for Senior Judges when the creation of a complete Division is not deemed necessary.

4. The Royal Decree for creating Divisions, Courts or positions for Senior Judges shall include the modification provided in the Annexes of this Act relating to the organisation of the judicial institutions.

5. The date in which the newly created Divisions and Courts shall start functioning is established by the Ministry of Justice after consulting the General Council of the Judiciary. Said date shall be published in the Official State Journal.

6. For the Government and Ministry of Justice to exercise the rights recognised in the previous items, the specified budget for said purposes shall be included in the General State Budget Act relating the financial year concerned.

#### Article 21.

1. The Government, on a proposal of the General Council of the Judiciary and previous report of the Autonomous Communities with transferred competences in justice matters, may establish the separation between the First Instance Courts and

Instructions Courts in those judicial districts in which the number of First Instance and Instructions Courts advise so.

**2.** The Minister of Justice may establish that the First Instance Courts, the Instruction Courts, the First Instance and Instruction Courts and the Violence against Woman Courts shall be served by Senior Judges, providing that said Courts are located in a judicial district superior to 150,000 inhabitants officially registered or districts which current population is higher than the aforementioned figure and the volume of competencies requests so.

**3.** In the case provided in this Article, the modification from the Annexes of this Act relating to the organisation of the judicial institutions shall be provided.

### **SECTION III**

#### **Designation with technical nature or with exclusive functions of the Court Clerk Office and Civil Registry**

##### **Article 22.**

In the General Council of the Judiciary shall be served by the members of the Judiciary determined in its personnel structure, regardless of the members which compose the organisation provided in this Act.

##### **Article 23.**

The remunerations of the Lawyers at the service of the Technical Department of the Supreme Court shall correspond to the ones received by a Lawyer of the Judicial Administration of a Chamber of the Supreme Court. However, the Lawyers which exercise a coordination work in accordance with Article 61.4 bis of Organic Act 6/1985, 1 of July, on the Judiciary and are members of the Judicial Service, shall receive the remunerations provided in Annexe II.2 of Act 15/2003 corresponding to the Senior Judges of the Technical Department of the Supreme Court.

##### **Article 24.**

The Management of the Inspection Department of the General Council of the Judiciary shall be occupied by the Senior Judge of the Supreme Court or by who has been promoted to said category. The Head of the Inspection Department, when the same leaves the position, shall be assigned to the Supreme Court until the same is assigned to a final destination.

##### **Article 25.**

In the Ministry of Justice, in accordance the assignment established in its Organic Regulation, the following positions may exist: up to 10 for judges or senior judges, ten for prosecutors, 10 for court clerks and two for forensic surgeon. Said positions shall be occupied through a competition based on qualifications called and resolved by the Ministry of Justice in accordance to what is regulatory established.



Said positions shall not increase the number of positions approved for the Ministry. The civil officers employed for occupying said positions shall continue with the same remuneration scheme of their original judicial body.

#### **Article 26.**

1. The total release of the workload in the corresponding legal field, referred by Article 166.3 of the Organic Act on Judiciary and corresponding to the Judge responsible of the Senior Court, shall be carried out in those judicial districts with forty or more Courts in the different legal fields.

2. In the remaining constituencies, if needed, the Senior Court shall be provided with an independent office for exercising the corresponding functions.

#### **Article 27.**

(Repealed)

Please note that this Article has been repealed by the repealing provision two of Act 20/2011, of 21 July, Ref. BOE-A-2011-12628, with effects from 30.06.17.

Previous wording:

1. The positions for Judges and Senior Judges in charge of the Civil Registry exclusively shall be the ones of the Central Civil Registry of Madrid and the ones provided in Annexe VI. In the municipalities with more than 500,000 inhabitants and in those which are considered convenient due to the volume of the population and the large number of actions of such nature, other positions for Judges and Senior Judges in charge of the Civil Registry exclusively may be established by Ministerial Order.

2. In the remaining municipalities in which exists several First Instance Courts or First Instance and Instruction Courts, the functions of Civil Registry shall be exercise by the Courts from the conversion envisaged in the repealing provision three of Organic Act on the Judiciary which were exercising said functions when were converted. In the absence of the same, the Court No. 1 shall exercise said functions. A Ministerial Order shall order that the functions of Civil Registry shall be assumed by the combined Court determined.

### **TITLE III**

## **Organic Provisions for the effectiveness of the organisation of the judicial institutions**

### **SECTION I**

#### **Establishment of the organisation of the Supreme Court and the National High Court**

##### **Article 28.**

1. The current Third, Fourth and Fifth Contentious-Administrative Chambers of the Supreme Court shall be constituted as a sole Chamber for Contentious-Administrative proceedings within 30 days from the date in which Acts enters into force.
2. The General Council of the Judiciary shall appointed the Senior Judge of the Supreme Court which shall occupy the Presidency of the Contentious-Administrative Chamber hereinafter among the different Presidents of the current Chambers.

##### **Article 29.**

1. The Senior Judges which are actually assigned to the Civil and Contentious-Administrative Chambers of the Supreme Court shall remain at the service of the same.
2. The composition of the Civil Chamber of the Supreme Court shall be adapted to composition provided in Annexe II, for which purpose, from the date in which this Act enters into force, the vacancies arisen shall be reduced and not occupied until the new composition is completed.
3. The composition of the Contentious-Administrative Chamber shall be adjusted to the composition provided in Annexe II.

##### **Article 30.**

From the date in which this Act enters into force, the General Council of the Judiciary shall propose the necessary appointments for completing the Criminal and Labour Chambers of the Supreme Court.

##### **Article 31.**

1. Within three months from the date in which the present Acts enters into force, the General Council of the Judiciary shall carried out the assignment of Presidents of the Chamber and Senior Judges of the Central Labour Court to the Labour Chamber of the National High Court and to the Labour Chamber of the High Court of Justice of Madrid.



For said assignments, the General Council of the Judiciary shall follow the order of preference provided in the transitional provision eighteen of the Organic Act on the Judiciary. Once the assignments are made, the Government, within one month from the publication the same, shall establish the date in which the duties of the person assigned shall start. Said date shall be published in the Official State Journal.

2. The personnel at the service of the Justice Administration who serves in the Central Labour Court shall be assigned to the National High Court or High Court of Justice of Madrid. The assignment shall be determined in accordance with the regulations.

## **SECTION II**

### **Constitution and establishment of the organisation of the High Courts of Justice**

#### **Article 32.**

1. The constitution of the High Courts of Justice shall have priority within the programming referred in Article 62 of this Act.

2. Within three months from the date of entry into force of this Act, the Legislative Assemblies of the Autonomous Communities shall present a list of three judges with more than ten years of professional activity in the corresponding Autonomous Community for occupying the position of Senior Judge of the Civil and Criminal Chamber of the High Court of Justice. Once the list is received, the General Council of the Judiciary shall carry out the corresponding appointment.

3. In the same period of three months, having received or not the list of the three judges mentioned in the item two of this Article, the General Council of the Judiciary shall propose the appointment of the remaining Senior Judges of the Civil and Criminal Chamber and the Contentious-Administrative Chamber of the High Courts of Justice.

4. Once the Senior Judges of the High Court of Justice have been appointed, the General Council of the Judiciary shall propose the appointment of the President of said Courts and shall establish the date, which shall be published in the Official State Journal, in which the Court is constituted and the members of the same shall occupy their positions, without prejudice to when the aforementioned information is published in the Official Autonomous Community Journal.

5. In those Autonomous Communities which have a special or local Civil Law, as well as have their own official language, for the appointment for the position to President of the High Court of Justice, the General Council of the Judiciary shall consider as merit the specialisation in this special or local Civil Law and the knowledge of the own official language of the Community.

#### **Article 33.**

1. The Civil and Penal Chamber and the Contentious-Administrative Chamber of the High Court of Justice shall initiate the exercise of their competence in the date in which the Court is constituted.



2. If the appointment of a Senior Judge of the Civil and Criminal Chamber presented in a list of three by the Legislative Assembly of the Autonomous Community has not been carried out, the procedure for completing the Chamber provided by the Act shall be applied.

3. The territorial scope of the jurisdiction of the High Court of Justice shall be effective, for each Chamber, in the date in which the exercise of its competence is initiated.

#### **Article 34.**

1. The Senior Judges assigned to the Contentious-Administrative Chambers of the Regional Courts shall be integrated in the Contentious-Administrative Chambers of the High Court of Justice which are located in the same place where the other Chambers were located when this Act enters into force.

2. The Senior Judges assigned to the Contentious-Administrative Chamber which are located in Murcia shall be integrated in the Chamber corresponding to the same proceedings in the High Court of Justice of said Autonomous Community.

3. The General Council of the Judiciary shall propose the appointment of the Senior Judges referred in the previous paragraphs of this Article within the period provided in Article 32.3.

4. The presidency of the Contentious-Administrative Chamber of the High Court of Justice shall be exercised by the Senior Judge who holds the presidency of the Contentious Chamber of the Regional Court. In case of several, the said Chamber shall be presided by the most senior President in the category of Senior Judges.

5. The personnel at the service of the Justice Administration who serve in the Contentious-Administrative Chambers of the Regional Court shall be appointed to the High Court of Justice and be assigned to the Contentious-Administrative Chamber. Said assignment may be modified in accordance with the provisions provided in the regulations.

#### **Article 35.**

1. The Government, previous report from the General Council of the Judiciary, shall determine the date in which the positions which correspond to each Chamber of the High Court of Justice shall be effective, in accordance with the envisaged personnel and following criteria of preference according the competences of each body.

2. The full compositions of every Chamber shall be completed within the programming period provided in Article 62 of this Act.

#### **Article 36.**

1. The General Council of the Judiciary may limit the initial proposals of appointment of members of the Labour Chambers of the High Courts of Justice to the President of the Chamber and, if appropriate, to the Senior Judge or Judges which are deemed necessary in each Court, without the prejudice to complete progressively the positions until reaching its full composition.



2. The proposals referred in the previous paragraph shall be carried out in the moment considered appropriate and subject to a gradual approach, taking into account the possibilities for occupying the corresponding positions and the vacancies that may arise in other judicial bodies.

3. Once the appointments are made, the General Council of the Judiciary shall determine the date in which each Chamber shall initiate the exercise of their competences. Said date shall be published in the Official State Journal, without prejudice to the publication of the same in the corresponding Official Autonomous Community Journal.

#### **Article 37.**

In the assumptions envisaged in the previous articles, the period to cease in the bodies of origin and the period for the Senior Judges to occupy the positions, as well as for the personnel to be integrated in the corresponding Chambers, shall be calculated pursuant to what is established in the appointment agreement or destination.

#### **Article 38.**

Once the Labour Chamber of the National High Court and the Labour Chambers of the High Courts of Justice have initiated their competences, and having carried out the integration envisaged in the transitional provision eighteen of Organic Act on the Judiciary, the General Council of the Judiciary shall determine the abolition date of the Central Labour Court and the termination of its jurisdiction. Said date shall be published in the Official State Journal. From said date, the Labour Chamber of the High Court of Justice of Madrid, according to transitional provision aforementioned, shall heard the pending proceedings from the Central Labour Court, except the ones which shall be heard at the Labour Chamber of the National High Court.

### **SECTION III**

#### **Establishment of the organisation of the Provincial Courts**

#### **Article 39.**

1. The initial composition of the Provincial Courts is the current one. After consulting the General Council of the Judiciary, according to the budgetary availability of each fiscal year and taking into account the order of priority according to the bodies with more competences, the Government shall determine the date in which the corresponding positions are effective until completing the positions envisaged within the programming provided in Article 62 of this Act.

2. When positions established in this Act includes a number of Senior Judges inferior to the one envisaged for the Provincial Audience, the positions shall be reduced in accordance with the vacancies that may arise when this Act enters into force.

#### **Article 40.**

1. The Provincial Courts located in municipalities where already exists Civil Chambers shall be composed, apart from the Senior Judges which already compose the same, by the Senior Judges of the Civil Chambers of the Regional Court of the same seat. Said

Senior Judges shall be assigned in the corresponding Division pursuant to what is determined by the General Council of the Judiciary, following criteria based on their positions in the category until the composition established in this Act is completed. The remaining Senior Judges of the Civil Chamber or Chambers shall be assigned in the Provincial Court, as seconded personnel, in accordance with their positions in the category.

2. The Senior Judges assigned according to the previous paragraph shall occupy automatically the first vacancies in the Provincial Court.

3. The personnel at the services of the Justice Administration who serves in the Civil Chambers of the Regional Court shall be assigned to the Provincial Court. The assignment shall be determined in accordance with the regulations.

## **SECTION IV**

### **Establishment of the organisation of the Courts**

#### **Article 41.**

1. In accordance with the General State Budget Act, previous report of the General Council of the Judiciary having into account the development of the selection process of the members of the Judicial Service and the criteria of preference depending the competencies and the urban, industrial and tourist concentration in the territorial scope of the jurisdiction, the Government shall carried out gradually the constitution, conversion and abolition of Courts required for the effective organisation provided in this Act pursuant to the criteria established in this and following Articles.

2. The constitution of those Courts for which functioning is necessary the effectiveness of the new judicial districts shall be carried out within the period provided in Article 42 of this Act.

3. The geographical limits of the current judicial districts shall remain when this Act enters into force.

4. In accordance with the demarcation established in this Act, the territorial scope of the jurisdiction of the different Courts shall be effective in the date determined in accordance with Article 42.2.

5. The date on which the Courts should be functioning referred in this Section shall be established pursuant to Article 20.5 of this Act.

#### **Article 42.**

1. After consulting the General Council of the Judiciary and within 6 months from the issuing date of this Act, the Government shall establish the date on which the Criminal Courts shall be functioning through a Royal Decree pursuant to the initial organisation established, without prejudice to the provisions in Article 41.

2. After consulting the General Council of the Judiciary and within one year from the date of enactment of this Act, the Government shall carry out the conversion of the current District Courts into First Instance Courts, Instruction Courts, First Instance and



Instruction Courts or, if appropriate, into Magistrates' Court pursuant to the transitional provision three of Organic Act on the Judiciary.

**3.** When the General Council of the Judiciary exercise its capacity provided in Article 98 of Organic Act on the Judiciary when converting the District Courts into First Instance Courts, Instruction Courts or First Instance and Instruction Courts, the date on which the agreement shall be effective may be the conversion date referred in the previous item.

#### **Article 43.**

**1.** In the date of entry into force of this Act, the current Employment Tribunals shall cease to perform their functions. The Labour Courts shall be functioning, with the corresponding judges and civil officers assigned to the same.

**2.** In accordance with the General State Budget Act and previous report from the General Council of the Judiciary, the Government shall order the constitution of the necessary Labour Courts until completing the organisation envisaged in this Act within the general programming period provided in Article 62.

#### **Article 44.**

In accordance with the General State Budget Act and previous report from the General Council of the Judiciary, the Government shall order the constitution of the different Contentious-Administrative Courts envisaged in this Act within the general programming period established in Article 62.

#### **Article 45.**

In accordance with the General State Budget Act and previous report from the General Council of the Judiciary, the Government shall constitute and establish the location the necessary Prison Vigilance Courts for reaching the total number established by this Act within the general programming period established in Article 62.

#### **Article 46.**

**1.** In accordance with the General State Budget Act and previous report from the General Council of the Judiciary, the Government shall decide the constitution of the different Minors' Court within the general programming period established in Article 62.

**2.** The date on which said Courts shall be functioning shall be established pursuant to Article 20.5 of this Act.

#### **Article 46 bis.**

In accordance with the General State Budget Act and after consulting the General Council of the Judiciary and the Autonomous Community, if appropriate, the Government shall constitute, harmonise and convert gradually through a Royal Decree the Instruction Courts and First Instance and Instruction Courts for the full effectiveness of the organisation corresponding to the Violence against Woman Courts.

#### **Article 46 *ter*.**

1. In accordance with the General State Budget Act and after consulting the General Council of the Judiciary and the Autonomous Community, if appropriate, the Government shall constitute, harmonise and convert gradually through a Royal Decree the Instruction Courts and First Instance and Instruction Courts for the full effectiveness of the organisation corresponding to the Violence against Woman Courts.

2. While the Autonomous Communities do not establish the location of the Violence against Woman Courts, the same shall be located in those municipalities established in Annexe XIII of this Act.

#### **Article 47.**

The functioning of the Minors' Court or Courts shall mean the cessation current judges of the Juvenile Court which territorial scope corresponds to the aforementioned. The remaining personnel shall be integrated in the constituted Court or Courts.

#### **Article 48.**

1. When this Act enters into force, the Court of Appeal of the Juvenile Courts shall be abolished and the exercise of its competence shall terminate.

2. The personnel at the service of the Court of Appeal shall be assigned to the different judicial bodies of Madrid which have jurisdiction in minor matters, by occupying a position or, in the absence thereof, by being assigned to said body and occupying automatically the first vacancy.

#### **Article 49.**

1. The Magistrates shall be paid in accordance with the modules fixed in the General State Budget Act depending the number of inhabitants officially registered in a municipality.

2. The remuneration aforementioned referred in this Article shall be compatible with the normal remuneration obtained by the interested person in the exercise of his professional or mercantile activities. In any case, the remuneration referred in the previous item shall not recognise any kind of dependency on the City Council.

#### **Article 50.**

1. The Court Clerk Office of the Magistrates' Court located in municipalities with more than 7,000 inhabitants and the office of other Magistrates' Courts or Groups of Court Clerk Offices of those Courts which workload justifies so, shall be occupied by an officer at the service of the Justice Administration in accordance with regulation on the personnel.

2. The Personnel Order shall determine the groups referred in Article 99.2 of the Organic Act of the Judiciary.

3. In the remaining Magistrates' Court, the City Council shall appoint the appropriate person for occupying the position Court Clerk Officer. The Ministry of Justice shall be informed about said appointment for its approval.



4. The Autonomous Communities and the City Council may promote and execute, pursuant to the local government, the Groups of Court Clerk Offices for being served by a sole civil officer.

**Article 51.**

1. The Magistrates' Court shall be served by personnel belonging to the City Council, without prejudice to the regulation governing the exercise of their functions.

2. However, the Magistrates' Court located in municipalities of more than 7,000 inhabitants and those Magistrates' Court which workload justifies so, shall be served by officers of the bodies at the service of the Justice Administration pursuant to the positions envisaged for the personnel of said bodies.

3. The facilities and equipment of the Magistrates' Court, except when their total or partial management lies on the Ministry of Justice or the corresponding Autonomous Community is responsible for their, shall be responsibility of the corresponding City Council.

**Article 52.**

A credit for subsidizing the City Councils due to the payment of the concepts aforementioned shall be established in the General State Budget. The subsidy received shall depend on the number of inhabitants of the municipality.

## **TITLE IV**

### **Procedural provisions for the effectiveness of the organisation of the judicial institutions**

#### **Article 53.**

1. The judicial bodies shall respect the organic, procedural and functioning rules established in the Organic Act of the Judiciary and the provisions in force, except for the amendments of this dispositions as a result of this Act.

2. If otherwise is not provided, the bodies with a new organisation shall adjust their functioning to the procedural rules in force which can be applied to the abolished bodies of similar nature.

3. The composition of the Division shall be pursuant to Article 198 of Organic Act on the Judiciary, with no limitations other than those inferred in Articles 12.2 and 14.2 of this Act.

4. When the bodies with a new organisation or the ones of new creation provided in this Act start the exercise of their competences, the pending proceedings in other bodies shall not be assumed by other existing bodies, except the cases in which said bodies have been abolished and without prejudice to what may be agreed in the distribution.

#### **Article 54**

(Left void)

#### **Article 55.**

The Senior Judges of the Civil and Penal Chamber of the High Court of Justice shall complete the remaining Chambers of the Court in accordance with the duty provided in Article 199 of Organic Act on the Judiciary.

#### **Article 56.**

1. The Provincial Courts of Albacete, Asturias, Ávila, Baleares, Barcelona, Burgos, Cáceres, Cantabria, A Coruña, Granada, Guadalajara, Guipúzcoa, Madrid, Murcia, Las Palmas, Navarra, La Rioja, Santa Cruz de Tenerife, Segovia, Sevilla, Toledo, Valencia, Valladolid, Vizcaya y Zaragoza shall assume full competence in the civil legal field on the date this Act enters into force.

2. The remaining Provincial Courts shall continue with their competences on the civil legal field corresponding to the same in the moment this Act enters into force. Within one year of its entry into force, the Government shall dispose the necessary for every Provincial Court to assume fully their competences in the civil legal field.



**3.** While the aforementioned Provincial Courts do not assume fully their competences, the competences not assumed shall be exercised by the Provincial Court located in the municipality where a Civil Chamber of the Regional Court existed when this Act entered into force.

**Article 57.**

The Contentious-Administrative Chambers of the High Courts of Justice shall have the competence corresponding to the Contentious-Administrative Chambers of the Regional Courts when this Act enters into force as long as the Contentious-Administrative Courts are not functioning.

**Article 58.**

**1.** Appeals against acts or provisions from the Bodies of the Autonomous Community which are heard at the Contentious-Administrative Chambers of the High Courts of Justice cannot be appealed before the Contentious-Administrative Chamber of the Supreme Court, except if the original application of appeal is based in the infringement of rules not issued by the Bodies of the Autonomous Community.

**2.** What is provided in the previous item is understood without prejudice to what is provided in Article 102 of Contentious-Administrative Jurisdiction Act on Appeal for Judicial Review.

**3.** The doubts relating the competence between the one corresponding to the Supreme Court and the one corresponding to the High Court of Justice shall be resolved in accordance with the section d) of Article 54.1.

**Article 59.**

**1.** While the special proceedings for challenging collective agreements and the proceedings on collective conflicts referred in Article 67 of Organic Act on the Judiciary are not regulated, the Labour Chamber of the National High Court shall heard the appeals for judicial review presented against the judgments pronounced by the Labour Courts on said matters, in accordance with the legislation in force, providing that territorial scope of application of the collective agreement or the territory in which the resolution of the collective conflict shall have effect is greater than the territory scope of application of an Autonomous Community.

**2.** The Labour Chambers of the High Courts of Justice shall heard the appeals against judgments pronounced by the Labour Courts of the Autonomous Community, which were heard at the Central Labour Court on the entry into force of this Act, except those envisaged in the previous item.

**3.** While the corresponding Labour Chambers of the High Court of Justice have not initiated their competences, the appeals aforementioned shall be heard at the Central Labour Court.

**4.** The competence matters between the Labour Chamber of the National High Court and the Central Labour Court or Labour Chambers of the High Courts of Justice shall be resolved in accordance with Article 51 of Organic Act on the Judiciary.



#### **Article 60.**

The Labour Courts shall heard the cases assigned to the Employment Tribunals when this Act enters into force as long as the Act on Labour Proceedings has not been issued.

#### **Article 61.**

**1.** The Minors' Court shall have the competence established in the legislation governing the criminal responsibility of children.

**2.** The Provincial Courts shall heard the appeals filed against the judgements pronounced by the Minors' Court of the province, without prejudice to what is provided in the legislation governing the criminal responsibility of children for the National High Court.



## **TITLE V**

### **Economic and financial measures for the implementation and maintenance of the organisation of the judicial institutions**

#### **Article 62.**

The Government shall prepare the necessary programs for the effective application of the new organisation for the judicial institutions in the period from 1989 to 1992. The Ministry of Justice is responsible for its implementation and execution.

Notwithstanding the preceding paragraph, and previous report from the General Council of the Judiciary, the Government may decide to extend the aforementioned programs to the years 1993 and 1994.

#### **Article 63.**

For determining the credits referred in the previous Article, the Government shall prepare annually the necessary programs pursuant to the objective criteria of priority referred in Articles 32, 39, 41, 43.2, 44, 45 and 46 of this Act. For said purpose, the Ministry of Justice shall present a report stating what has been carried out.

#### **Article 64.**

For the effects provided in Article 10 of Act on Compulsory Purchase, the construction, alteration and extension works of buildings for Courts, Centres, Bodies and Services of the Justice Administration required for executing the organisation established in this Act are declared public utility.

## **TRANSITIONAL PROVISIONS**

### **One.**

While the Autonomous Communities do not determined the capital of the judicial district in accordance with Article 35.6 of Organic Act on the Judiciary, the municipality which already was the capital of the district when this Act entered into force shall be considered the capital. If several, the municipality with a higher number of First Instance and Instruction Courts shall be considered the capital. If more than one, the municipality with more inhabitants officially registered. Otherwise, the municipality or municipalities with a higher number of District Courts, with the same criteria of priority, and, ultimately, with a higher number of inhabitants officially registered.

### **Second.**

The two Presidents of the current Contentious-Administrative Chambers of the Supreme Court which are not appointed for the Presidency of the Contentious-Administrative Chamber of the same, shall keep, in a private capacity, the economic rights corresponding to a President of a Chamber of the Supreme Court. The same shall preside over the Divisions that may be established.

### **Three**

1. The Presidents of the current Contentious-Administrative Chambers of the Provincial Courts who shall not occupy the Presidency of the Contentious-Administrative Chamber of the National High Court shall preside over the Division that may be established. The same shall keep the economic rights corresponding to a President of a Chamber while the same are not assigned elsewhere.

2. The President of the Civil Chambers of the Regional Courts shall preside over the Divisions which may be established. The same shall keep the economic rights corresponding to a President of a Chamber while the same are not assigned elsewhere.

### **Four.**

While the Minors' Courts are not constituted and without prejudice to what is provided by the transitional provision six of Organic Act on the Judiciary, the General Council of the Judiciary shall proceed to appoint the members of the Judicial Service for the positions corresponding to the Juvenile Courts which are not occupied by Judges from the category of Unipersonal Juvenile Judge by ceasing the current judges.

### **Five.**

The current Court Clerk Officers of the Magistrates' Courts shall continue exercising their functions pursuant to the current scheme until an appropriate person is appointed.

### **Six.**

The current Magistrates shall continue exercising their functions until the new Magistrates' Court which has been constituted pursuant to Organic Act on the Judiciary is functioning.

**Seven.**

The remunerations referred in Article 49 shall only correspond to those Magistrates appointed on the entry into force of this Act.

**Eight.**

The members of the Judicial Service referred in the transitional provision twenty-five of Organic Act on the Judiciary shall participate in the competition based on qualifications referred in Article 25 of this Act. In the case the same do not obtain the position offered in said competition or do not take part in the same, within three months from the date of resolution of said competition, the members shall choose whether to participate in the active service of the Judicial Service, being allocated to the High Court of Justice or the Provincial Court of Madrid until being assigned to their own positions, or whether to be in the situation of voluntary leave in the Provincial Court of Madrid.

**Nine.**

1. While the corresponding Autonomous Communities do not establish the location of the Criminal Courts, the location shall be considered established in the places where the corresponding Criminal Courts had been constituted pursuant to what is provided in Annexe VII of this Act.

2. While the corresponding Autonomous Communities do not establish the location of the Mercantile Courts, the location shall be considered established in those provincial capitals or locations that, for being places where the mercantile proceedings are statically more frequent or for having heard in exclusive certain exclusive competences, as said locations are considered suitable for the appropriate fulfilment of the judicial duties relating the procedural time limits.

**Ten.**

While the First Instance and Instruction, Criminal and Mercantile Courts of the new territorial constituencies created by this Act are not functioning, the judicial bodies, which on the date of entry into force of the disposition had competence, shall keep the same and heard their pending proceedings until the termination of the same.

**ADDITIONAL PROVISIONS****One.**

The First Instance and Instruction Courts and the Instruction Courts which are converted shall terminate the exercise of their functions pursuant to the following rules:

1.a Twenty days after the entry into force of this Act, the Courts shall terminate to exercise their investigation function of the criminal proceedings related to the cases that shall be judged. The remaining Instruction Courts shall assume the aforementioned functions.

2.a From the date established in the Royal Decree referred in Article 42.1, the aforementioned Court shall terminate the exercise of their functions as First Instance Courts except for pronouncing within the period established the judgments for cases

closed which were only pending for judgement. Once the final judgement has been notified, the cases judged as well as the pending proceedings shall be referred to the corresponding Court in accordance with the rules approved by the corresponding Governing Chamber. The parties of the proceedings shall be notified about the aforementioned change.

3.a From the date aforementioned, the Instruction Courts shall terminate the exercise of their functions relating the cases that shall be judged by the Provincial Court.

### **Second.**

The Judge and the Court Clerk Officer of the converted Courts shall occupy the corresponding positions in the Criminal Court. The personnel assigned to the converted Courts shall be assigned to the corresponding Criminal Court, without prejudice to the assignments that may be carried out in accordance with the regulations in force and what may be provided in the Royal Decree referred in Article 42.1 of this Act. The Courts to be converted shall be the newest Instruction or First Instance Courts. Among the same, the oldest shall be the Number 1, and so on.

### **Three.**

In the date established in the Royal Decree referred in Article 42.1 of this Act and after consulting the General Council of the Judiciary, the following Courts shall be converted into Criminal Courts:

First Instance and Instruction Courts:

Two in Algeciras.

One in Huesca.

One in Gijón.

One in Tenerife.

One in Palencia.

One in Segovia.

One in Cuenca.

One in Ciudad Real.

One in Cáceres.

One in Santiago de Compostela.

One in Lugo.

On in Vigo.

Two in Alicante.

Instruction Courts:

One in Córdoba.



Two in Granada.

Three in Málaga.

Five in Sevilla.

Two in Zaragoza.

Two in Palma de Mallorca.

Two in Las Palmas.

One in Valladolid.

Nine in Barcelona.

One in A Coruña.

Twelve in Madrid.

One in Murcia.

One in Pamplona.

Five in Valencia.

Three in Bilbao.

One in San Sebastián.

#### **FINAL DISPOSITION**

Sole Provision. Implementation.

The Government shall enact the necessary provisions for the enforcement and implementation of the content of this Act.

Therefore,

I order all the Spaniards, private citizens and authorities to abide and enforce this Act.

Palacio de la Zarzuela, 28 December 1988.

JUAN CARLOS R.

The President or the Spanish Government,

FELIPE GONZÁLEZ MÁRQUEZ

