Consiglio di Stato

Tribunali Amministrativi Regionali

THE CODE
OF ADMINISTRATIVE TRIAL

A cura del Segretariato generale della Giustizia amministrativa

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The Code of Administrative Trial

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GENERAL PROVISIONS

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Principles and Bodies of Administrative Jurisdiction

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General principles

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1. The administrative jurisdiction shall ensure full and effective protection in accordance with the principles of the Italian Constitution and European law.

2. Due process

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2. The administrative court and the parties will cooperate to achieve the reasonable duration of trials.

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4. Jurisdiction of the administrative courts

1. Administrative jurisdiction is exercised by the Regional Administrative Courts and the Council of State according to the norms of this Code.

5. Regional Administrative Courts

1. The Regional Administrative Courts and the Regional Court for Administrative Justice for the autonomous region of Trentino-Alto Adige are courts of first instance.

2. The Regional Administrative Court reaches a decision with the participation of three judges, including the president. In the absence of the president, the college is chaired by the most senior judge in the role.

3. The Regional Court of Administrative Justice for the autonomous region of Trentino-Alto Adige is governed by the special statute and its implementing regulations.

6. Council of State

1. The Council of State is the court of last instance of the administrative jurisdiction.

2. In the exercise of its judicial function the Council of State decides with the participation of five judges, including a president of the division and four councillors. In the case of impediment of the president, the college is chaired by the most senior councillor.

3. Except for what is foreseen by the norms of implementation mentioned in paragraph 6, the plenary assembly is composed of the President of the Council of State, who presides, and twelve judges of the Council of State, assigned to the judicial divisions.

4. In the case of impediment, the President of the Council of State shall be replaced by the most senior president of the judicial divisions present; the other members of the plenary assembly, in the case of absence or impediment, shall be replaced by the most senior judge of the same grade of their respective division.

5. For appeals against the judgments of the Bolzano autonomous section of the Regional Court of Administrative Justice, the provisions of the special statute and its implementing norms shall also apply.

6. Appeals against the decisions of the Regional Administrative Court of Sicily are brought before the Council of Administrative Justice for the Region of Sicily, in accordance with the provisions of the special statute and its implementing norms.

Chapter III

Administrative jurisdiction

7. Administrative jurisdiction

1. The administrative courts are competent to deal with any dispute over legitimate interests and, in the particular matters laid out by law, of individual rights, concerning the exercise or non-exercise of administrative power, related to measures, acts, agreements or behaviour, also indirectly related to the exercise of that power, adopted by public administrations. Acts or measures on the part of central Government in the exercise of political power cannot be challenged.

2. Public administrations, for the purposes of this Code, also means legal subjects equated to them or in any case required to respect the principles of administrative proceedings.

3. The administrative jurisdiction is divided into general jurisdiction of legitimacy, exclusive jurisdiction and jurisdiction extended to the merits.

4. To the general jurisdiction of legitimacy of the administrative court are attributed disputes relating to acts, measures or omissions by public administrations, including those relating to compensation for damage arising from the violation of legitimate interests and other consequential economic rights, even if introduced independently.

5. In matters of exclusive jurisdiction, determined by law and by Article 133, the administrative court rules on disputes related to individual rights as well, also for compensation purposes.

6. The administrative court shall exercise jurisdiction extended to the merits in the disputes specified by law and in Article 134. In the exercise of this jurisdiction the administrative court may take the place of the administration.

7. The principle of effectiveness is achieved through the concentration before the administrative court of every form of protection of legitimate interests and, in particular matters laid out by the law, of individual rights.

8. The extraordinary appeal to the President of the Republic is allowed only for disputes devolved to the administrative jurisdiction.

8. Interlocutory cognisance and preliminary questions

1. In matters in which the administrative court does not have exclusive jurisdiction, without the force of *res judicata*, it will judge on all preliminary or interlocutory issues relating to rights, the resolution of which is necessary to rule on the main issue.

2. Questions concerning the status and capacity of persons remain reserved to the ordinary courts, except in the case of the ability to be party to legal proceedings, and the resolution of contesting the veracity of an act.

9. Lack of jurisdiction

1. The lack of jurisdiction can also be raised *ex officio* in the first instance. In appeal proceedings it is raised if it has been inferred with specific grounds of appeal against the part of the contested judgment which ruled on jurisdiction either implicitly or explicitly.

10. Preliminary petition for jurisdiction

1. In proceedings before the Regional Administrative Courts, action for a preliminary petition on jurisdiction is admitted under section 41 of the Code of Civil Procedure. The first paragraph of Article 367 of the same code is applied.

2. In the stay of judgment precautionary measures may be requested, but the court cannot apply them if it not does consider it has jurisdiction.

11. Decision on issues of jurisdiction

1. The administrative court, when it declines jurisdiction, indicates, if applicable, the national court that does have jurisdiction.

2. Where the administrative court declines jurisdiction in favour of another national court or vice versa, without prejudice to the barrings and forfeitures that have occurred, the procedural and substantive effects of the application

are safeguarded if the trial is proposed again before the court indicated in the judgment declining jurisdiction, within a deadline of three months from its final decision.

3. When the claim is promptly brought back before the administrative court, this court, at the first hearing, can raise the issue of the conflict of jurisdiction also *ex officio*.

4. If in a dispute brought before another court, the United Sections of the Court of Cassation, dealing with the issue of jurisdiction, allocate it to the administrative court, without prejudice to the barrings and forfeitures that have occurred, the procedural and substantive effects of the application are safeguarded, if the judgment is deposited again by the interested party within the period of three months from the publication of the decision of the United Sections.

5. In actions that are deposited again, the court, with regard to the barrings and forfeitures that have occurred, may grant relief from the time limit for excusable error where the presuppositions exist for this.

6. In the action deposited again before the administrative court, the evidence gathered in the trial before the court without jurisdiction can be evaluated as such.

7. The precautionary measures lose their effectiveness thirty days after the publication of the decision declaring the lack of jurisdiction of the court which issued them. The parties may deposit the precautionary issues again before the court with jurisdiction.

12. Relations with arbitration

1. Disputes concerning individual rights assigned to the jurisdiction of the administrative courts may be settled by binding arbitration in law under Articles 806 and following of the Code of Civil Procedure.

Chapter IV

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13. Mandatory territorial jurisdiction

1. On disputes concerning measures, acts, agreements or behaviour of public administrations, mandatory jurisdiction lies with the Regional Administra-

tive Court in the territorial jurisdiction of which they are based. The Regional Administrative Court also has mandatory jurisdiction in any dispute regarding measures, acts, agreements or behaviour of public administrations whose direct effects are limited to the territorial region in which the court is based.

2. For disputes concerning employees in the public sector, mandatory jurisdiction lies with the court within whose territorial district the place of employment is based.

3. In other cases, for state acts, mandatory jurisdiction lies with the Regional Administrative Court of Lazio, in Rome, and for the acts of public bodies of a supra-regional character, the Regional Administrative Court in the territory of which the body is based.

4. The jurisdiction conferred by this article and Article 14 is also mandatory with regard to precautionary measures.

4-*bis*. The territorial jurisdiction on the measure from which the interest in challenging derives also draws to itself that relating to the preliminary acts of the same measure, except for normative or general acts, for appeal against which are confirmed the ordinary criteria of attribution of jurisdiction.

14. Mandatory functional jurisdiction

1. The disputes indicated in Article 135 and by the law are functionally devolved to the mandatory jurisdiction of the Regional Administrative Court of Lazio, in Rome.

2. Disputes relating to powers exercised by the Authority for Electricity and Gas are functionally devolved to the mandatory jurisdiction of the Regional Administrative Court of Lombardy, in Milan.

3. Jurisdiction is likewise functionally mandatory for the disputes referred to in Articles 113 and 119, as well as any other judgment for which the law or this Code identify the competent court with criteria other than those referred to in Article 13.

15. Raising of lack of jurisdiction

1. The lack of jurisdiction is raised *ex officio* until the case is decided in the first instance. In appeal proceedings it is raised if it is inferred with specific grounds against the court of the contested decision which, either implicitly or explicitly, ruled on jurisdiction.

2. In any case, the court decides on jurisdiction before ruling on the interlocutory application and, if it does not recognise its jurisdiction in accordance with Articles 13 and 14, it will not decide on the same.

3. In the absence of an interlocutory application, lack of jurisdiction may be pleaded within the deadline for the appearance before the court. The president shall call a meeting in chambers for the immediate pronouncement on the question of jurisdiction. The procedure to be observed is that laid down in Article 87, paragraph 3.

4. The court shall provide by order, in the cases referred to in paragraphs 2 and 3. If it declares its lack of jurisdiction, it indicates the court deemed competent. If, within a period of thirty days from the notification of this order, the case is reinstated before the competent court, the trial continues in the new court. Except as provided for in paragraph 6, the reinstatement precludes a petition for the transfer of the case on the grounds of competence to the party who made it.

5. The order ruling on competence without deciding on the interlocutory application may be appealed exclusively with the ruling as to competence provided for in Article 16. If the court before which the case is reinstated believes in turn it does not have jurisdiction, it requests a decision on competence *ex officio*.

The order regarding competence and the interlocutory application may be challenged with the ruling as to competence, or in the ordinary ways when, together with the decision on competence, the one on the interlocutory application is also being challenged.

6. Pending the ruling as to competence, the interlocutory application is proposed to the court indicated as competent in the order provided for in paragraph 4, which decides in every case, subject to the provisions of paragraph 7.

7. The provisional remedies pronounced by the court declared incompetent lose efficacy at the end of the period of thirty days from the date of publication of the ordinance ruling on competence.

8. The interlocutory application can be deposited again before the court declared as having jurisdiction.

9. The provisions of paragraphs 7 and 8 also apply to provisional remedies provided by the court deprived of the power to decide the case by the presidential ordinance referred to in Article 47, paragraph 2.

16. Ruling as to jurisdiction

1. The ruling as to jurisdiction is proposed with a request notified to the other parties within the mandatory and non-reducible time limit of thirty days from the notification or sixty days from the publication of the order pronouncing a decision on competence, and it is deposited, together with a copy of documentation useful for the purpose of reaching a decision, within the time limit referred to in Article 45, reduced by half at the secretariat of the Council of State. If the ruling is requested *ex officio*, pursuant to Article 15, paragraph 5, the order is transmitted immediately to the Council of State by the Secretariat and communicated to the parties.

2. The Council of State decides with an order in chambers, following notice of the calling of the same, sent at least ten days earlier to the defenders. The order also decides on the costs of the ruling, unless the ruling has been requested *ex officio*. The decision on costs remains effective even after the final judgment, unless otherwise provided for in the same judgment. Article 55, paragraphs 5 to 8 are applied to the proceeding.

3. The decision on jurisdiction made by the Council of State, in the case of a ruling or appeal under Article 62, paragraph 4, binds the Regional Administrative Courts. If a court other than the one indicated is referred to as having jurisdiction, the judgment has to be resumpted within a period of thirty days from the notification of the order deciding on the ruling, or within sixty days of its publication.

Chapter V

Exclusion and objection

17. Exclusion

1. For administrative courts the causes and methods of exclusion provided by the Code of Civil Procedure apply. Exclusion has no affect on earlier acts.

18. Objection

1. For administrative courts apply the grounds for objection laid down in the Code of Civil Procedure.

2. An objection is proposed, at least three days before the designated hearing, with an application addressed to the president, when the judges who are to participate in the hearing are known; otherwise, it may be presented orally at the hearing before the debate.

3. The application must specify the reasons and evidence and be signed by the party or their lawyer equipped with special power of attorney.

4. Once the objection has been raised, the college dealing with the dispute may order the continuation of the proceedings, if after a summary consideration they find the application inadmissible or manifestly unfounded.

5. In any case the final decision on the request shall be taken within thirty days of its submission, by the college of the court before the replacement of the judge objected to, who must be heard.

6. The members of the college of the court deciding on the objection cannot be objected to.

7. The court, with the order declaring inadmissible or rejecting the objection, decides on the costs and may order the party who proposed it to a pecuniary penalty not exceeding five hundred euros.

8. An objection has no effect on prior acts. The acceptance of the objection renders nulls the acts performed pursuant to paragraph 4 with the participation of the judge objected to.

Chapter VI

Court officers

19. Inspector and technical expert

1. The court can be assisted, for the completion of specific acts or the whole trial, by one or more inspectors or, if necessary, by one or more experts.

2. The role of expert may be entrusted to public-sector employees, professionals enrolled in the registers provided for in Article 13 of the provisions for the implementation of the Code of Civil Procedure, or others with particular technical expertise. Persons performing activities in favour of the parties in the proceedings cannot be appointed. The inspection is entrusted to a public body, extraneous to the parties to the proceedings, and possessing specific technical skills.

3. The inspector and the expert shall carry out the investigations assigned to them by the court and provide the requested clarifications orally as well.

20. Obligation to provide service and objection

1. The inspector and expert, if chosen from among public-sector employees or those enrolled in the registers provided for in Article 13 of the provisions for the implementation of the Code of Civil Procedure, are obliged to provide service, unless the court recognises the existence of a valid reason.

2. The expert or inspector, may be objected to by the parties for the reasons stated in Article 51 of the Code of Civil Procedure. The court which appointed them is informed of the objection.

21. *Ad acta* commissioner

1. As part of its jurisdiction, the administrative court, if it is to take the place of the administration, may appoint as its auxiliary an *ad acta* commissioner. The provisions of Article 20, paragraph 2 apply.

Title II

Parties and defenders

22. Defence

1. Except as provided for in Article 23, in proceedings before the Regional Administrative Courts representation by a lawyer is mandatory.

2. For proceedings before the Council of State representation by a lawyer admitted to practise before the higher courts is required.

3. A party or the person who represents them, when they have the necessary qualities to exercise the office of defender with power of attorney before the court, may represent themselves without the assistance of any other defender.

23. Personal defence by the parties

1. The parties may represent themselves in court without the assistance of a defender in proceedings concerning administrative access and transparency,

electoral matters and proceedings concerning the right of EU citizens and their family members to move and reside freely in the territory of Member States.

24. Representative ad litem

1. The power of attorney conferred to act and debate before the court is also understood as conferred to propose additional grounds and cross-claim, unless otherwise provided therein.

25. Domicile

1. Subject to the provisions of Article 136, paragraph 1, with reference to communications from the secretariat:

a) in proceedings before the Regional Administrative Courts, the party, if they do not elect for domicile in the municipality of the Regional Administrative Court or its branch where the appeal is deposited, is domiciled, to all intents and purposes, at the secretariat of the Regional Administrative Court or its branch;

b) in proceedings before the Council of State, the party, if they do not elect for domicile in Rome, is domiciled, to all intents and purposes, at the secretariat of the Council of State.

1-*bis*. Article 16-*sexies* of Decree-Law no. 179 of 18 October 2012, converted with amendments by Law no. 221 of 17 December 2012, is applied, *mutatis mutandis*, to the computerised administrative trial.

1-*ter*. From 1 January 2018 paragraph 1 shall not apply to actions subject to the discipline of the computerised administrative trial.

26. Costs of the proceedings

1. Where it issues a decision, the court will also declare on the costs, in accordance with Articles 91, 92, 93, 94, 96 and 97 of the Code of Civil Procedure, also taking into account the respect for the principles of clarity and brevity referred to in Article 3, paragraph 2. In any case, the court, also *ex officio*, may also order the unsuccessful party to pay, in favour of the counterparty, a sum of money determined equitably, but no more than twice the costs incurred, in the presence of manifestly unfounded reasons.

2. The court orders the unsuccessful party *ex officio* to pay a financial penalty, of not less than twice and no more than five times the *contributo uni-*

ficato (court fees) due for the application initiating proceedings, when the losing party has brought the legal action or resisted recklessly in court. In disputes concerning tenders referred to in Articles 119, letter a) and 120, the amount of the sanction may be increased up to one per cent of the value of the contract, if greater than the above abovementioned limit. Article 15 of the implementing rules shall apply to the revenue from penalties provided for in this paragraph.

Title III

Actions and claims

Chapter I

Adversary proceedings and intervention

27. Adversary proceedings

1. Adversary proceedings is fully guaranteed when the application is notified to the defending administration and to the counterparties where they exist.

2. If the proceedings are brought only against some of the parties and there has been no forfeiture, the court orders the integration of the adversary proceedings with the other parties within a deadline. Pending the integration of the adversary proceedings, the court may provide for interim measures of protection.

28. Intervention

1. If the ruling has not been brought against one or some of the parties against whom judgment has to be pronounced, they can intervene, without prejudice to the right of defence.

2. Anyone who is not party to the judgment and is not debarred from the exercise of relevant actions, but has an interest, may intervene accepting the state and degree which the judgment is at.

3. The court, also on the request of one of the parties, when it considers it appropriate that the trial be directed against a third party, orders the intervention.

Chapter II

Actions of cognisance

29. Annulling action

1. The annulling action for violation of the law, incompetence and abuse of power has to be proposed within the sixty-day time limit.

30. Condemnatory action

1. The condemnatory action may be brought simultaneously with another action or, only in cases of exclusive jurisdiction and in the cases referred to in this article, independently as well.

2. An order to pay compensation for damage arising from the unlawful exercise of an administrative activity or the non-exercise of a mandatory one can be sought. In cases of exclusive jurisdiction it is also possible to seek compensation for damages for the infringement of individual rights. In the circumstances provided for in Article 2058 of the Civil Code, reparation in kind can be sought.

3. The claim for compensation for damage to legitimate interests shall be deposited within the time limit of one hundred and twenty days from the day when the event occurred or knowledge of the measure if the damage resulted directly from this. In determining compensation the court weighs all the factual circumstances and the overall behaviour of the parties excluding, however, any compensation for damage that could have been avoided using due diligence, also through the use of the instruments of protection provided.

4. For the compensation of damage which the applicant proves that they have suffered as a result of intentional or negligent failure to observe the time limit for the conclusion of the proceeding, the period referred to in paragraph 3 shall not begin as long as this failure persists. The period referred to in paragraph 3, in any case, begins one year after the expiry of the deadline for providing for it.

5. In the case in which an action for annulment is proposed the claim for damages can be made during the proceedings, or in any case up to one hundred twenty days from the *res judicata*.

6. The administrative court deals exclusively with every claim for compensation for damage of legitimate interests or, in matters of exclusive jurisdiction, of individual rights.

31. Action against silence and declarations of invalidity

1. After the expiry of the time limit for the conclusion of the administrative procedure and in other cases provided for in law, interested parties can seek an order requiring the ascertainment of the duty of the administration to provide.

2. The action may be brought as long as the failure persists and, in any case, no later than one year after the expiry of the deadline for the conclusion of the procedure. This is without prejudice for the redepositing of the application for initiating the procedure where this is justified.

3. The court may rule on the merits of the claim in question only when dealing with binding activities or when it appears that there exist no residual margins for the exercise of discretion and no investigations are required that have to be carried out by the administration.

4. The application for the ascertainment of invalidity provided by the law is proposed within the time limit of one hundred and eighty days. The invalidity of the act can always be opposed by the defendant or raised by the court *ex officio*. The provisions of this paragraph shall not apply to invalidity under Article 114, paragraph 4, letter b), which remain subject to the provisions of Title I of Book IV.

32. Plurality of requests and conversion of the actions

1. A combination of related issues proposed principally or incidentally is always possible in the same trial. If the actions are subject to different rites, the ordinary one is applied, except as provided for by Title V of Book IV.

2. The court qualifies the proposed action according to its substantial elements. If all the requisite conditions exist the court can always provide for the conversion of the actions.

Title IV

Judicial decisions

33. Measures

1. The court hands down:

a) a ruling when it defines the judgment wholly or part;

b) an order when it takes preliminary or interim measures, or decides on competence;

c) a decree in cases provided for by law.

2. Judgments of first instance are enforceable.

3. Orders and decrees, if not made at the hearing or in chambers and included in the related minutes, are communicated to the parties by the secretariat within the period referred to in Article 89, paragraph 3.

4. The order declaring incompetence has to indicate which court is competent in every instance.

34. Judgments of merits

1. In the case of allowing the appeal, the court, within the limits of the request:

a) annuls all or part of the contested measure;

b) orders the administration, which has remained inert, to provide within a time limit;

c) orders the payment of a sum of money, also by way of damages, the adoption of appropriate measures to protect the individual in the case and provide for damages in specific form in accordance with Article 2058 of the Civil Code. The action of condemnation for the release of a requested measure is exercised, within the limits laid down in Article 31, paragraph 3, at the same time as the action for annulment of the decision refusing or action against silence;

d) in cases of jurisdiction of merits, it adopts a new act or amends or reforms the one challenged;

e) it employs appropriate measures to ensure the implementation of the sentence and pronunciations that have not been suspended, including the appointment of an *ad acta* commissioner, which can also take place in the cognisance phase with effect from the expiry of the period allowed for compliance.

2. In no case may the court pronounce in respect of administrative powers not yet exercised. Except as provided for in paragraph 3 and Article 30, paragraph 3, the court cannot examine the legitimacy of the acts that the applicant should have challenged with the action of invalidity referred to in Article 29.

3. When, during proceedings, the invalidity of the contested measure is no longer useful to the applicant, the court establishes the illegitimacy of the act if there is an interest for compensatory damages.

4. In the event of a pecuniary penalty, the court may, in the absence of opposition from the parties, establish the criteria under which the debtor has to propose to the creditor the payment of a sum within a reasonable period. If the

parties fail to reach an agreement, or fail to discharge their obligations under the agreement reached, with the appeal provided for in Title I of Book IV, it is possible to request the determination of the amount due or the fulfilment of unexecuted obligations.

5. When, in the course of the proceedings, the applicant's claim is shown to have been fully satisfied, the court shall declare ceased the matter of litigation.

35. Ritual pronunciations

1. The court declares, also *ex officio*, the appeal:

a) inadmissible if it ascertains tardiness in the notification or depositing;

b) inadmissible when there is a lack of interest or there are other reasons impeding a decision on the merits;

c) unpursuable when during proceedings arises the lack of interest of the parties in the decision, or the adversary proceedings have not been completed within the prescribed period, or when other reasons impeding a decision supervene over the merits.

2. The court declares the judgment extinguished:

a) if, in the cases provided by this Code, it does not continue or resume within a period fixed by law or assigned by the court;

b) by preclusion;

c) by renunciation.

36. Interim pronunciations

1. Unless this Code provides otherwise, the court shall provide by order in all the cases in which it does not define the judgment even in part.

2. The ruling of the court is not final when it only decides on some of the issues, even if it adopts investigative measures for dealing further with the case.

37. Excusable error

1. The court may order, also *ex officio*, relief from the time limit because of excusable error in the presence of objective reasons of uncertainty on matters of law or of serious obstacles in fact.

Title V

Provisions for reference

38. Internal reference

1. The administrative trial takes place according to the provisions of Book II which, if not expressly derogated from, shall also apply to impugnments and special rites.

39. External reference

1. For matters not governed by this Code, the provisions of the Code of Civil Procedure apply, insofar as they are applicable or the expression of general principles.

2. Notification of the documents relating to the administrative trial are in any case governed by the Code of Civil Procedure and the special laws regarding the notification of judicial documents in civil matters.

BOOK TWO

ADMINISTRATIVE TRIAL OF THE FIRST INSTANCE

Title I

General provisions

Chapter I

Petition

Section I

Petition and constitution of the parties

40. Contents of the petition

1. The petition must state clearly:

a) the identifying particulars of the applicant, their defender and the parties against whom the petition is being made;

b) the indication of the object of the petition, including the act or provision that is being challenged, and the date of its notification, communication or knowledge;

c) a brief account of the facts;

d) the specific grounds on which the petition is based;

e) a statement of the evidence;

f) an indication of the measures requested to the court;

g) the signature of the applicant, if they are present in court, or of their defender, indicating, in this case, the special power of attorney.

2. Reasons offered in contravention of paragraph 1, letter d), are inadmissible.

41. Notification of the application and its recipients

1. Applications are introduced with an appeal to the competent Regional Administrative Court.

2. Where action is proposed for annulment, the application must be notified, under penalty of forfeiture, to the public administration that issued the contested act, and at least one of the counterparties to be identified within the act itself within the time limit required by law, commencing with notification, communication or full knowledge, or, for acts for which individual notification is not required, from the day on which the deadline expired for publication if this is required by law or on the basis of the law. Where the action proposed is of condemnation, also independently, the application is also notified to the potential beneficiaries of the unlawful act, in accordance with Article 102 of the Code of Civil Procedure; otherwise the court will act in accordance with Article 49.

3. The notification of complaints against government departments is carried out according to current regulations for their legal defence.

4. When notification of the appeal by the ordinary means proves to be particularly difficult because of the number of people to be brought to court, the president of the court or the section to which the action has been assigned, may provide, on application, for the notification to be made by public proclamation and define the means for this.

5. The time limit for the notification of the application is increased by thirty days, if the parties or some of them reside in another country in Europe, or ninety days if they reside outside of Europe.

Art. 42. Cross-appeal and counterclaim

1. The defendants and counterparties may raise questions whose interest is dependent on the proposed principal claim, by means of cross-appeal. The appeal is made within sixty days of the receipt of notification of the principal appeal. For persons who took part in the hearing the period shall run from effective knowledge of the main appeal that was brought.

2. The cross-appeal, notified under Article 41 to the counterparties in person or, if represented, under Article 170 of the Code of Civil Procedure, has the contents as at Article 40 and is deposited within the deadline and in the manner provided for in Article 45.

3. The other parties may submit statements and produce documents within the time and in the manner provided for in Article 46.

4. Cross-appeal cognisance is attributed to the competent court for the main appeal, unless the application introduced with the cross-appeal is referred to the jurisdiction of the Regional Administrative Court of Lazio, based in Rome,

or the functional competence of a regional administrative court, under Article 14; in such cases, jurisdiction to hear the entire judgment belongs to the Regional Administrative Court of Lazio, based in Rome or the functional competence of a regional administrative court in accordance with Article 14.

5. In disputes dealing with questions of individual rights, counterclaims depending on titles previously settled in judgment are proposed within the deadline and in the manner provided for in this Article.

43. Additional grounds

1. The main and incidental applicants may introduce with additional grounds new reasons in support of applications that have already been proposed, or new issues so long as they are related to those already proposed. For additional grounds the rules for the application apply, including that relating to the time limit.

2. Notifications to the counterparties take place under Article 170 of the Code of Civil Procedure.

3. If the new application referred to in paragraph 1 has been made through a separate action before the same court, the court shall ensure the applications are combined according to Article 70.

44. Defects of the application and notification

1. The application is null:

a) if the signature is missing;

b) if, by a failure to comply with the other rules laid down in Article 40, there is absolute uncertainty about the persons or object of the application.

2. If the application contains irregularities, the college may order that it be renewed within a period fixed for that purpose.

3. The constitution of those notified cancels the invalidity of the notification of the application, without prejudice to the rights acquired before the appearance, as well as the irregularities referred to in paragraph 2.

4. In cases where the notification is invalid and the recipient does not appear in court, the court, if it considers that the negative outcome of the notification depends on reasons not attributable to the notifier, gives the applicant a deadline to renew it. The renewal prevents any forfeiture.

4-*bis*. Without prejudice to Article 39, paragraph 2, the nullity of the acts can be raised *ex officio*.

45. Deposition of the application and other documents relating to the case

1. The application and other documents relating to the case subject to prior notification are deposited with the secretariat of the court within a period of thirty days, starting from the time when the last notification of the act was delivered to the recipient. The terms referred to in this paragraph shall be increased in the cases and to the extent provided for in Article 41, paragraph 5.

2. The party is able without prejudice to deposit the act, even if it has not yet reached the addressee, from the time when the notification of the application is completed for the notifier.

3. The party who makes use of the option referred to in paragraph 2 is required to submit documentary evidence of the date on which the notification was completed for the recipient as well. In the absence of such evidence, the questions introduced in the act cannot be examined.

4. The failure by the applicant to produce a copy of the contested measure and documentation in support of the application does not imply forfeiture.

46. Constitution of the parties called

1. Within a period of sixty days from their receiving notification of the application, the parties called may appear, submit briefs, deposit applications, state the evidence they intend to rely on and produce documentation.

2. The administration, within the period referred to in paragraph 1, must produce the contested measure, as well as the acts and documentation on which the act was enacted, those mentioned in it and those that the administration considers useful for the decision of the court.

3. The documentation referred to in paragraph 2 shall be communicated to the parties by the secretariat.

4. The periods referred to in this article are increased in the cases and to the extent provided for in Article 41, paragraph 5.

47. Division of disputes between Regional Administrative Courts and branches

1. In applications being heard in the branches based on the criteria laid down in Article 13, the deposition of the application is carried out at the secretariat of the branch. Apart from the cases referred to in Article 14, the division of disputes between the Regional Administrative Court in the regional capital and a branch is not considered a matter of competence.

2. If one party, other than the applicant, believes that the application should be decided by the Regional Administrative Court in the regional capital rather than the branch, or vice versa, they must raise this in the act of constitution or, in any case, with an act deposited no later than thirty days from the expiry of the deadline mentioned in Article 46, paragraph 1. The president of the Regional Administrative Court provides for the exception with a motivated order that cannot be impugned, having heard the parties who made the request. If precautionary measures have been taken, the provisions of Article 15, paragraphs 8 and 9 apply.

3. Except as provided by the last sentence of paragraph 2, Article 15 does not apply to the division referred to in this article.

48. Judgment subsequent to the transposition of the extraordinary petition

1. If the party against whom an extraordinary petition was proposed under Articles 8 and following of the Decree of the President of the Republic no. 1199 of 24 November 1971, opposes this, the case continues before the Regional Administrative Court if the applicant, within a maximum period of sixty days from receiving the notice of opposition, deposits with the relative secretariat the announcement of their appearance in court, giving notice to the other parties.

2. Pronunciations on injunctions granted in extraordinary sitting lose their effect upon the expiry of the sixtieth day following the date of deposit of the announcement of appearance in court under paragraph 1. The applicant, however, can still repeat the request for an injunction to the Regional Administrative Court.

3. Where the opposition is inadmissible, the Regional Administrative Court arranges the return of the documents relating to the case for the continuation of proceedings in extraordinary session.

49. Integration of the adversary proceedings

1. When the application has been brought against only one of the counterparties, the president or college orders the integration of the adversary proceedings in relation to the others.

2. The integration of the adversary proceedings is not ordered in the event that the application is manifestly inadmissible, unacceptable, estopped or unfounded; in these cases, the college provides a judgment in a simplified form in accordance with Article 74.

3. The court, in ordering the integration of the adversary proceedings, sets the relative deadline, indicating the parties who have to be notified of the application. It may permit, if it were considered necessary, notification by public proclamation, laying down the means for this. If the act of integrating the adversary proceedings is not promptly notified and deposited, the court provides in accordance with Article 35.

4. Those against whom the adversary proceedings are integrated pursuant to paragraph 1 shall not be affected by previous pleadings.

50. Voluntary intervention in the case

1. The intervention is proposed with a direct act to the court concerned, including general details of the intervening party. The act must contain the reasons on which it is based, with the production of supporting documents, and must be signed in accordance with Article 40, paragraph 1, letter d).

2. The act of intervention is notified to the other parties and deposited under the terms of Article 45; the constituted parties are notified as under Article 170 of the Code of Civil Procedure.

3. The depositing of the act of intervention referred to in Article 28, paragraph 2, is allowed up to thirty days before the hearing.

51. Intervention by order of the court

1. Where the intervention referred to in Article 28, paragraph 3 is employed, the court orders the party to call the third party to appear, indicating the acts to be served and the deadline for notification.

2. The constitution of the intervening party follows the procedure laid down in Article 46. The provisions of Article 49, paragraph 3, third sentence apply.

Section II

Shortening, extension and suspension of deadlines

52. Special deadlines and methods of notification

1. The deadlines set by the court, unless otherwise provided for, are final.

2. The president may authorise the notification of the application or provisions also directly by the defender by any suitable means, including computer or fax, in accordance with Article 151 of the Code of Civil Procedure.

3. Should the last day of the deadline fall on a public holiday, the deadline set by law or by the court for the satisfaction thereof is extended by law to the next working day.

4. For deadlines counted backwards, the deadline is brought forward to the previous working day.

5. The extension referred to in paragraph 3 also applies to deadlines that expire on Saturdays.

53. Shortening of deadlines

1. In urgent cases, the president of the court may, on application, shorten by up to half the time allowed by this Code for the setting of hearings or chambers. Consequently the deadlines for the defence of the related phase are reduced proportionately.

2. The decree shortening the deadline, drafted at the foot of the application, is notified, by the party who requested it, to the administration involved and the counterparties; the shortened deadline starts at the notification of the decree.

54. Late deposit of briefs and documents and suspension of deadlines

1. The late submission of briefs or documents may be authorised exceptionally, on application by one party, by the college, while ensuring the full respect of the rights of the counterparties to be heard on such acts, when their production within the legal deadline proves to be extremely difficult.

2. Deadlines regarding hearings are suspended from 1 August to 31 August each year.

3. The suspension of the deadline provided for in paragraph 2 does not apply to preliminary proceedings.

Title II

Interim injunctions

55. Collegial precautionary measures

1. If an applicant, claiming to suffer serious and irreparable damage during the time necessary to arrive at a decision on the application, requests the issuance of precautionary measures, including the injunction to pay a compen-

satory sum provisionally, which appear, in the circumstances, most likely to temporarily ensure the effects of the decision on the application, the college pronounces with an order made in chambers.

2. Where a decision on the precautionary application has irreversible effects, the college may order the provision of security, also by a guarantor, to which to subordinate the granting or denial of the injunction. The granting or denial of the injunction cannot be subordinated to security where the interlocutory application relates to fundamental human rights or other assets of primary constitutional import. The measure that imposes the security indicates the object, the means to provide it and the deadline within which it is to be performed.

3. The interlocutory application may be deposited with the main application or with a separate application notified to the other parties.

4. The interlocutory application cannot be proceeded with until a request for a hearing on the merits is presented, unless this is to be fixed *ex officio*.

5. The college rules on the interlocutory application in the first meeting in chambers following the twentieth day since the completion, for the recipient as well, of the final notification and, likewise, the tenth day from the depositing of the application. The parties may submit briefs and documents up to two clear days before the meeting in chambers.

6. For the purposes of the temporary injunction, if notification is effected by the postal service, the applicant, if they are not yet in possession of the notice of receipt, may prove the date of notification by producing a copy of the recorded delivery by the monitoring-of-mail service on the Post Office website, unless the opposite can be proven.

7. In chambers, the parties may appear and defenders are heard if they so request. The discussion takes place orally and in a concise manner.

8. The college, for serious and exceptional reasons, may authorise the production in chambers of documents, with copies delivered to the other parties up to the beginning of the debate.

9. The precautionary order has to justify in terms of the assessment of the alleged damage and indicates the profiles which, on summary examination, might lead to a reasonable forecast of the outcome of the application.

10. The Regional Administrative Court, for interim relief, if it considers that the needs of the applicant are favourably appreciable and adequately protectable with the prompt definition of the judgment of merits, fixes, with a collegial order, the date of the hearing on the merits. The Council of State can provide in the same sense, stating the reasons why it wishes to reform the su-

pervision order of the first degree; in this case, the pronunciation of appeal is sent to the Regional Administrative Court for an early hearing on the merits.

11. The order with which an interlocutory application is arranged sets a date to discuss the appeal on merits. In the event of a failure to arrange the hearing, the Council of State, if it confirms the interlocutory application on appeal, provides that the Regional Administrative Court should arrange the same as a priority. To this end, the order is sent by the secretariat to the original court.

12. When examining the interlocutory application the college, on a motion by one of the parties, adopts the necessary measures to ensure the completeness of the investigations and integrity of the adversary proceedings.

13. That court may order provisional measures only if it considers itself as having jurisdiction under Articles 13 and 14; otherwise it provides under Article 15, paragraph 4.

56. Monocratic precautionary measures

1. Before the treatment of the interlocutory application by the college, in cases of extreme gravity and urgency, such as not to allow even a delay until the date the council meets in chambers, the applicant may, with an interlocutory application or a separate application notified to the counterparties, request the President of the Regional Administrative Court, or the section thereof where the application is assigned, to provide for interim precautionary measures. The interlocutory application cannot be proceeded with until the presentation of the request for the hearing on merits, unless this has to be set *ex officio*. The president shall provide on the request only if they consider it to come under the competence of the Regional Administrative Court, otherwise they send the parties back to the college for the measures referred to in Article 55, paragraph 13.

2. The president or a judge appointed by them verifies that the notice of application has been delivered to the recipients or at least the public party and one of the counterparties, and provides with a motivated decree that cannot be appealed against. The notification can also be made by the defender by fax. The provisions of Article 55, paragraph 6 apply. If the preliminary requirement does not allow the ascertainment of the delivery of the notifications, for reasons not attributable to the applicant, the president can provide, without prejudice to the power of revocation. When deemed necessary the president, in chambers and without formalities, can hear, also separately, the parties that made themselves available before the adoption of the decree.

3. When a decision on the interlocutory application has irreversible effects, the president may subordinate the granting or denial of the injunction to the

provision of a security, also by a suretyship, determined by the impact of the irreversible effects that might be produced for the parties and others.

4. The decree, which in any case must indicate the council in chambers referred to in Article 55, paragraph 5, in the case of acceptance is effective up to said chambers. The decree loses efficacy if the college does not provide on the interlocutory application in chambers referred to in the previous sentence. For as long as it remains effective, the decree can be revoked or modified by notified application from one of the parties. Paragraph 2 applies to the latter application.

5. If the party exercises the power under the second sentence of paragraph 2, the provisional measures cease to have effect if the application is not notified in the ordinary manner within five days of the request for interim protective measures.

57. Expenses for interim proceedings

1. With the order that decides on the application, the court provides for the costs of the interim phase. The ruling on costs remains effective even after the final judgment, unless otherwise expressed in the ruling on merits.

58. Withdrawal or amendment of collegial interim measures and reproposing the rejected interlocutory application

1. The parties may repropose the interlocutory application to the college or request the withdrawal or amendment of the collegial interim measure if circumstances change or earlier facts come to light about which knowledge has been acquired after the preliminary injunction. In this case, the applicant must provide proof of the time when they acquired this knowledge.

2. Withdrawal may also be requested in the cases provided for in Article 395 of the Code of Civil Procedure.

59. Execution of interim measures

1. Where interim measures are not carried out, in whole or in part, the interested party, by motivated request notified to the other parties, may request the necessary enforcement measures at the Regional Administrative Court. The court exercises the powers inherent to the compliance proceedings referred to in Title I of Book IV and provides for costs. The payment of costs made under this paragraph are distinct from those as a result of the judgment on merits, unless otherwise expressed in the ruling.

60. Definition of the judgment following the interim hearing

1. When deciding on the interim measure, provided that at least twenty days have elapsed since the last notification of the application, the college, having established the completeness of the adversary proceedings and the investigation, after hearing from all the parties, can issue, in chambers, the judgment with a simplified form of sentence, unless one of the parties declares that they intend to propose additional grounds, cross-claim or ruling on competence, or ruling on jurisdiction. If the party declares their intention to ask for a ruling on competence or jurisdiction, the court shall grant a term not exceeding thirty days. Where the necessary conditions are met, the college arranges for the integration of the adversary proceedings or postponement to allow the bringing of additional grounds, cross-claim, or ruling on competence or jurisdiction, and at the same time sets the date for the continuation of the debate.

61. Interim measures prior to the cause

1. In cases of exceptional gravity and urgency, such as not to even allow prior notification of the application and the demand for interim protective measures by presidential decree, the party entitled to apply may request the adoption of interim and provisional measures that appear necessary during the time required to bring an action on merits and the interim demand during the proceedings.

2. The request, which is to be served with the methods prescribed for the notification of the application, is made to the president of the competent Regional Administrative Court for judgment. The president or a judge delegated by them, having ascertained the delivery of the notification to the recipients, rules on the request, having heard, if necessary, the parties and omitting any other formalities. The notification can be made by fax by the defender. Whenever the interim requirement does not allow for the verification of the delivery of the notifications, for reasons not attributable to the applicant, the president can provide in any case, without prejudice to the power of withdrawal to be exercised in the manner provided for in Article 56, paragraph 4, third and fourth sentences.

3. The incompetence of the court can be indicated *ex officio*.

4. The decree refusing the request cannot be appealed; however, it can be revived after the start of the merits hearing with the forms of interim demands during proceedings.

5. The measure of acceptance is notified by the applicant to the other parties within the deadline set by the court, of no more than five days. If the execution

of the interim injunction issued under this article has irreversible effects, the president may subordinate the granting of the interim injunction to the provision of a security, also by a suretyship. The measure of acceptance still loses effect when, within fifteen days of its enactment, the application with the interlocutory application is not notified and this is not deposited in the next five days accompanied by a date for a hearing; in any case the measure granted under this article loses effect on the expiry of sixty days from the date of issue, after which the only effective precautionary measures still in place are those which are confirmed or established during the proceedings. The decree cannot be appealed but it can be revoked or modified by notified application from one of the parties for as long as it remains effective. Paragraph 2 applies to the latter application.

6. For the implementation of the interim injunction and the ruling on costs, the provisions on interim measures during proceedings apply.

7. The provisions of this article shall not apply to judgments on appeal.

62. Interim appeal

1. Appeal can be made to the Council of State against interim orders, to be proposed within thirty days of the notification of the order, or sixty days from its publication.

2. The appeal, deposited within the period referred to in Article 45, is decided by order in chambers. Articles 55, paragraph 2 and paragraphs 5 to 10, 56 and 57 apply to the judgment.

3. The measure of acceptance providing for interim measures shall be sent by the secretariat to the original court, also under Article 55, paragraph 11.

4. In the judgment referred to in this article the infringement, in the first instance, of Article 10, paragraphs 2, 13, 14, Article 15, paragraph 2, Article 42, paragraph 4, and Article 55, paragraph 13 is also raised *ex officio*. If Articles 13, 14, Article 15, paragraph 2, Article 42, paragraph 4, and Article 55, paragraph 13, appear to have been infringed, the competent court for the pre-trial appeal submits the matter to a hearing of the parties under Article 73, paragraph 3, and regulates *ex officio* on the competence under Article 16, paragraph 3. When declaring the incompetence of the Regional Administrative Court hearing the case, the same order cancels any interim measures issued by a court other than that referred to in Article 15, paragraph 6. For the definition of the pre-trial phase Article 15, paragraph 8 applies.

Title III

Evidence and investigative activities

Chapter I

Evidence

63. Evidence

1. Notwithstanding the burden of proof lying with them, the court may also ask the parties *ex officio* for clarification or documents.

2. The court, also *ex officio*, may order third parties to produce in court documents or whatever else it deems necessary, according to Articles 210 and following of the Code of Civil Procedure; it may also arrange for inspection in accordance with Article 118 of the same code.

3. On request of a party the court may admit the evidence of witnesses, which is always taken in written form pursuant to the Code of Civil Procedure.

4. Where it considers it necessary to ascertain facts or acquire assessments that require special technical skills, the court may order a verification or, if necessary, may request a technical expert.

5. The court may also arrange for other forms of evidence provided for in the Code of Civil Procedure, excluding formal questioning and taking the oath.

Chapter II

Admission and acceptance of evidence

64. Availability, burden and evaluation of evidence

1. The parties are responsible for providing the evidence that is available to them regarding the facts underlying the issues and pleas.

2. Except in cases provided for by law, the court must base its decision on the evidence offered by the parties as well as the facts not specifically challenged by the parties involved.

3. The administrative court may, *ex officio*, also arrange for the acquisition of information and documents for the purposes of reaching a decision that are available to the public administration.

4. The court has to weigh the evidence according to its discretion and can infer proof from the behaviour of the parties during the trial.

65. Preliminary presidential and collegial investigation

1. The section president or a judge delegated by them, on the motivated request of one of the parties, takes the necessary measures to ensure the completeness of the investigation.

2. When the investigation is arranged by the college, this provides with an order with which it also fixes the date for the next hearing in the proceedings. The decision on technical expertise and verification is always taken by the college.

3. If the administration fails to deposit the contested measure and other documents relating to the case under Article 46, the president or a judge delegated by them or the college, also on request of one of the parties, orders the exhibition of the acts and documents in an appropriate time and manner.

66. Verification

1. The college, when it arranges for verification, identifies by order the organism responsible for it, formulates questions and sets a deadline for its completion and the deposit of its final report. The head of the verifying organism, or their delegate if the court has authorised the delegation, is responsible for the fulfilment of all the operations.

2. The decree shall be communicated by the secretariat to the verifying organism.

3. With the order referred to in paragraph 1, the college may arrange to pay an advance on the compensation to the verifying organism, or its delegate.

4. On completion of the verification, on the request of the verifying organism or its delegate, the president arranges by decree to pay the total remuneration due to the verifying organism, arranging provisionally for it to be paid by one of the parties. The tariffs applied are those set by the provisions relating to legal costs or, if lower, those set for the services rendered by the verifying organism. With the final judgment in the proceedings, the college rules definitively on the relative fees.

67. Technical expertise *ex officio*

1. In the order with which it arranges technical expertise *ex officio*, the college nominates the expert, formulates the questions and specifies the deadline

by which the expert appointed has to appear before the judge delegated for this purpose to assume the undertaking and swear the oath pursuant to paragraph 4. The order is communicated to the expert by the secretariat.

2. Any exclusion and objection by the expert are proposed, under penalty of forfeiture, within the period referred to in paragraph 1.

3. The college, with the same order referred to in paragraph 1, assigns the successive deadlines, which may be extended in accordance with Article 154 of the Code of Civil Procedure, for:

a) the payment to the expert of an advance on their fees;

b) the possible appointment, with a declaration received by the secretariat, of experts of the parties, who, besides being able to witness the operations of the court expert and speak with the same, can attend the hearing and chambers every time the court expert is present to clarify and provide, with the authorisation of the president, their observations on the results of the technical investigations;

c) the transmission, by the expert *ex officio*, of an outline of their report to the parties or, if appointed, their experts;

d) the transmission to the expert *ex officio* of any observations and conclusions of the experts of the parties;

e) the filing with the secretariat of the final report, in which the expert *ex officio* also provides an account of the observations and conclusions of the experts of the parties and specifically takes a position on them.

4. The expert's oath is made before the judge delegated for this purpose, as stipulated by Article 193 of the Code of Civil Procedure.

5. The total remuneration payable to the expert *ex officio* is liquidated, at the end of the operations, in accordance with Article 66, paragraph 4, first and third sentences.

68. Terms and methods of investigation

1. The president or delegated judge, or the college, in admitting the measures of inquiry, establish the terms to be observed and determine the place and means of assumption by applying, insofar as they are compatible, the provisions of the Code of Civil Procedure.

2. In order to gather evidence outside of the hearing one of the components of the college is delegated, who proceeds with the assistance of the secretariat which draft the related minutes. The secretariat informs the parties at least five days before of the date, time and location of operations.

3. If the inquiry has to take place outside of Italy, the request shall be made by means of rogatory letters or by proxy to the appropriate consul, under Article 204 of the Code of Civil Procedure.

4. The secretariat informs the parties that the investigation ordered has been carried out and that the relevant documents are available to them at the secretariat.

69. Subrogation of the judge delegated to the investigation

1. The subrogation of the delegated magistrate or the appointment of another judge to replace them in any act relating to the gathering of evidence is provided for with a decision of the president, even if the delegation was by collegial order.

Title IV

Consolidation, discussion of and decision on applications

Chapter I

Consolidation of applications

70. Consolidation of applications

1. The college may, on a motion by one of the parties or *ex officio* motions, arrange for the consolidation of related applications.

Chapter II

Discussion

71. Arranging the hearing

1. The hearing has to be requested by one of the parties in a specific non-cancellable application, to be presented within the maximum period of one year from the depositing of the application or the removal of the case from the role.

2. A party may indicate the urgency of the application by depositing a request for an earlier hearing.

3. The president, at the end of the period prescribed for the constitution of the other parties, fixes the date for the hearing of the application.

4. The pending time limit referred to in Article 15, paragraph 2, and the proposed regulation of competence do not preclude the hearing nor the decision on the application, also in accordance with Articles 60 and 74, unless in the period referred to in Article 73, paragraph 1, the party concerned deposits the notified instance of regulation of competence under the same Article 15, paragraph 2. In this case, the court may postpone the decision until the decision regarding the regulation of competence.

5. The decree fixing the hearing is communicated by the secretariat, at least sixty days before the date of the hearing, both to the applicant and the counterparties. This period is reduced to forty-five days on the parties' agreement, if the hearing on merits is fixed following the renunciation of the autonomous definition of the interlocutory application.

6. The president shall designate the rapporteur at least thirty days prior to the date of the hearing.

71-*bis*. Effects of the request for an earlier hearing

1. Following the action referred to in paragraph 2 of Article 71, the court, having ascertained the completeness of the adversary proceedings and investigation, after hearing from the parties on this point, can reach judgment, in chambers, with a simplified decision.

72. Priority in dealing with actions relating to a single issue

1. If for the purpose of ruling on an issue, it is necessary to resolve a single issue of law, also after the renunciation of all the reasons or pleas, and if the parties agree on the facts of the case, the president shall arrange a hearing as a priority.

2. The college, if it becomes aware of the absence of the conditions referred to in paragraph 1, shall order that the handling of the case continue in the ordinary way.

73. Hearing with discussion

1. The parties may submit documents up to forty clear days before the hearing, briefs up to thirty clear days and present replies, to the new documents and new briefs lodged for the hearing, up to twenty clear days.

2. At the hearing the parties can discuss briefly.

3. If the court feels it will base its judgment on a matter that has emerged *ex officio*, the court indicates this at the hearing, reporting it in the minutes. If the question emerges after moving on to the decision, the court reserves this and by order allows the parties a period not exceeding thirty days to deposit their briefs.

74. Judgments in simplified form

1. In the event that it detects the manifest foundation or the manifest inadmissibility, unacceptability, estoppel or lack of foundation of the application, the court decides with a simplified judgment. The grounds of the judgment may consist of a brief reference to the point of fact or law deemed conclusive or, if appropriate, to a conforming precedent.

Chapter III

Deliberation

75. Deliberation by the college

1. The college, after discussion, decides on the cause.

2. The decision may be deferred to a subsequent meeting in chambers.

76. Means of voting

1. The judges appointed for the hearing may be present in chambers.

2. The decision shall be taken in chambers by a vote of only the members of the college.

3. The president gathers the votes. The decision is taken by a majority. The first to vote is the rapporteur, then the second component of the college and, finally, the president. In proceedings before the Council of State the first to vote is the rapporteur, then the less senior in order of role, and so on until the president.

4. Article 276, second, fourth and fifth paragraphs, of the Code of Civil Procedure and Article 118, fourth paragraph, of the provisions for the implementation of the Code of Civil Procedure apply.

Title V

Contesting during the proceedings

Chapter I

Contesting the truthfulness of an act

77. Action for fraud

1. Whoever becomes aware of the fraudulence of a document has to establish whether an action for fraud has already been proposed or ask for the setting of a deadline within which to propose it to the competent ordinary court.

2. If the case can be decided regardless of the fraudulent document, the college rules on the dispute.

3. The proof of the proposed action for fraud is deposited with the court within thirty days of the expiry of the deadline pursuant to paragraph 1. Failing this, the President shall arrange a hearing to discuss it.

4. The action having been proposed, the college suspends the decision pending the resolution of the action for fraud.

78. Deposition of the judgment on the action for fraud

1. Having defined the judgment of fraud, the party that inferred the fraud deposits a certified copy of the judgment with the secretariat.

2. The application is declared extinct if no party deposits a copy of the judgment within a period of ninety days from its becoming final.

Chapter II

Suspension and interruption of the trial

79. Suspension and interruption of the trial

1. The suspension of the trial is governed by the Code of Civil Procedure, other laws and the law of the European Union.

2. The interruption of the trial is governed by the provisions of the Code of Civil Procedure.

3. The suspension orders made under Article 295 of the Code of Civil Procedure can be appealed. The appeal is decided in chambers.

80. Continuation or resumption of the suspended or interrupted trial

1. In the case of suspension of a judgment, for its continuation it is necessary to submit a demand for a hearing within ninety days of the notification of the act that removes the cause of the suspension.

2. The interrupted trial continues if the party against whom occurred the interrupting event presents a new application for a hearing.

3. If the trial does not continue, pursuant to paragraph 2, it has to be resumed, by the most diligent party, with an express act notified to all the other parties, within a period of ninety days after the legal knowledge of the event which interrupted it, acquired by declaration, notification or certification.

Title VI
Extinction and estoppel

81. Peremption

1. The application shall be deemed perempted if in the course of a year no acts of procedure occur. The term does not begin from the presentation of the instance provided for in Article 71, paragraph 1, and until a decision on the instance has been taken, except as provided in Article 82.

82. Peremption of applications over five years old

1. After the expiry of five years from the date of depositing the application, the secretariat shall notify the parties involved in virtue of which it falls on the applicant to submit a new request for a hearing, signed by the party that issued the proxy referred to in Article 24 and their defender, within one hundred and eighty days from the date of receipt of the notice. In the absence of such a new instance, the application is declared expired.

2. If, in the absence of the notification referred to in paragraph 1, the parties are informed of the setting of the hearing on the merits, the application is decided if the applicant declares, also at the hearing through their defender, to possess an interest in the decision; otherwise it is declared perempted by the president of the college by decree.

83. Effects of peremption

1. Peremption operates by law and can also be raised *ex officio*. Each party is responsible for its own costs in the proceedings.

84. Discontinuance

1. A party may discontinue its action at any stage and degree of the dispute, by a declaration signed by themselves or by a lawyer with a special mandate, and deposited with the secretariat, or through a declaration made at the hearing and recorded in the minutes.

2. The renunciating party has to pay the costs of the procedural acts completed, unless the college, having regard to all the circumstances, decides to compensate them.

3. The discontinuance must be notified to the other parties at least ten days before the hearing. If the parties who have an interest in pursuing the case offer no opposition, the trial is dismissed.

4. Also in the absence of the formalities mentioned in the preceding paragraphs, the court may infer from the intervention of unequivocal facts or acts after the commencement of the application and also from the behaviour of the parties, evidence of a lack of interest in the determination of the case.

85. Form and rite for dismissal and estoppel

1. Extinction and estoppel under Article 35 can be pronounced by decree by the president or by a judge they have delegated.

2. The decree shall be deposited with the secretariat, which shall communicate it to the parties involved.

3. Within a period of sixty days from the communication each of the interested parties may challenge it to the college, with an act notified to all the other parties.

4. The opposition judgment shall take place in accordance with Article 87, paragraph 3, and is decided with an order that, in the case of the appeal being upheld, fixes the date of the hearing on merits.

5. In the event of rejection, the costs shall be borne by the appellant and are decided by the college in the same order, with even the possibility of partial compensation being excluded.

6. The order is deposited with the secretariat, which communicates it to the interested parties.

7. An appeal can be made against the order to decide on the opposition.

8. The appeal judgment is carried out according to the provisions of Article 87, paragraph 3.

9. Extinction and estoppel are declared in a ruling if they occur, or are ascertained, at the hearing.

Title VII

Correction of material error in the provisions of the court

86. Correction procedure

1. Where it is necessary to correct material omissions or errors, the request for correction must be submitted to the court that issued the provision, which, if there is the consent of the parties, orders the correction by decree in chambers.

2. In the case of the parties not agreeing on the request for correction, the college will pronounce by order in chambers.

3. The correction shall be placed in the margin or at the foot of the original provision, indicating the decree or order that arranged for it.

Title VIII

Hearings

87. Public hearings and proceedings in chambers

1. Hearings are public under penalty of nullity, except as provided for in paragraph 2, but the president of the college may arrange for a closed session, for reasons of state security, public order or morality.

2. In addition to the other cases expressly provided for, the following are dealt with *in camera*:

a) preliminary judgments and those relating to the execution of preliminary collegial measures;

b) judgment on matters of silence;

c) judgment on matters relating to access to administrative documents and the violation of obligations of administrative transparency;

d) judgments of compliance;

e) judgments in opposition to the decrees that pronounce on the dismissal or estoppel of proceedings.

3. In the actions referred to in paragraph 2, with the exception of the hypothesis at letter a), and without prejudice to Article 116, paragraph 1, all deadlines are halved compared to those of the ordinary trial, except, in the judgment of first instance, those for the notification of the introductory application, the cross-claim and additional grounds. The council chamber is fixed *ex officio* at the first useful hearing after the thirtieth day commencing from the expiry of the period of the constitution of the interested parties. The defenders who so request will be heard in chambers.

4. Discussion at a public hearing does not constitute grounds for nullifying the decision.

Title IX

Judgment

88. Content of the judgment

1. The judgment is delivered in the name of the Italian people and bears the heading "Repubblica italiana" ("Italian Republic").

2. It has to contain:

a) the indication of the court and the college who pronounced it;

b) the names of the parties and their lawyers;

c) the applications;

d) a concise statement of the reasons in fact and in law for the decision, with reference to the precedents it is intended to comply with;

e) the ruling, including the decision on costs;

f) the order that the decision be carried out by the administrative authority;

g) an indication of the day, month, year and place on and in which the decision was pronounced;

h) the signature of the president and draftsman.

3. Article 118, paragraph 3 of the provisions for the implementation of the Code of Civil Procedure shall apply.

4. If the president is unable to sign because of death or other impediment, the judgment is signed by the senior member of the college, provided that prior to the signature mention is made of the impediment; if the draftsman is unable to sign because of death or other impediment, the signature of the President alone is sufficient, provided that prior to the signature mention is made of the impediment.

89. Publication and communication of the judgment

1. The judgment must be drafted no later than the forty-fifth day from the decision of the case.

2. The judgment, which cannot be changed after it is signed, is immediately made public through its deposition with the secretariat of the court which delivered it.

3. The secretariat acknowledges the deposition of the judgment at the foot of the page, adds the date and signature, and within five days communicates it to the interested parties.

90. Publicising the judgment

1. If the publicising of the judgment might help repair the damage, including that arising as a result of the provisions of Article 96 of the Code of Civil Procedure, the court, on application from a party, can order this at the expense of the losing party, through insertion as an extract, or through communication, in the forms specifically indicated, in one or more newspapers/magazines, by radio or television and websites designated by the court. If the insertion does not take place within the period specified by the court, the party in whose favour the order was made may carry it out, with the right to request the expenses from the party that should have.

BOOK THREE

APPEALS

Title I

Appeals in general

91. Means of challenge

1. The means of challenging judgments are the appeal, revision, third-party proceedings and appeal to the Court of Cassation only for reasons relating to jurisdiction.

92. Deadlines for appeals

1. Except as otherwise provided by special provisions of law, appeals are launched with an application and must be notified within a maximum period of sixty days from the notification of the judgment.

2. For cases of revision provided for in numbers 1, 2, 3 and 6 of the first paragraph of Article 395 of the Code of Civil Procedure and third-party proceedings pursuant to Article 108, paragraph 2, the period referred to in paragraph 1 runs from the date on which the fraud or deceit or collusion was discovered, or the document was recovered, or the judgment referred to in number 6 of the same Article 395 became final.

3. In the absence of the notification of the judgment, the appeal, the revision referred to in nos. 4 and 5 of Article 395 of the Code of Civil Procedure and the appeal to the Court of Cassation must be notified within six months of publication of the judgment.

4. The provision at paragraph 3 shall not apply where the party who did appear not in court can prove that they were unaware of the trial because of the invalidity of the claim or of its notification.

5. Subject to the provisions of Article 16, paragraph 3, the interim order which also ruled on the jurisdiction either implicitly or explicitly can be appealed pursuant to Article 62. Preliminary or interlocutory orders referred to in Article 36, paragraph 1, do not constitute an implicit decision on competence, nor those that disregard the interlocutory order without express reference to the issue of competence. The ruling which, implicitly or explicitly, pro-

nounced on competence together with merits is appealable in the ordinary manner and within the terms of paragraphs 1, 3 and 4.

93. The place of notification of the appeal

1. The appeal has to be notified at the declared residence or the domicile chosen by the party in the act of notification of the judgment or, failing that, with their defender either or at the declared residence or domicile chosen for the judgment according to the ruling.

2. Where notification is unsuccessful because the domiciliary has moved without formally notifying the other parties, the party which intends to appeal may submit to the President of the Regional Administrative Court or the President of the Council of State, depending on the court hearing the appeal, an application, accompanied by the attestation of the failure to notify, for the establishment of a deadline for the completion of the notification or for the renewal of the appeal.

94. Depositing of appeals

1. In judgments of appeal, revision and third-party proceedings, the application must be deposited with the secretariat of the court, under penalty of forfeiture, within thirty days of the last notification under Article 45, together with a copy of the contested judgment and proof of the notifications carried out.

95. Parties at the appeal judgment

1. The appeal against the judgment in inseparable or interdependent causes shall be notified to all the parties involved and, in other cases, to the parties who have an interest in taking part.

2. The appeal must be notified under penalty of inadmissibility in the terms provided for in Article 92 to at least one of the parties with an interest in taking part.

3. If the judgment was not appealed against all the parties referred to in paragraph 1, the court orders the integration of the adversary proceedings, setting a deadline within which notification has to be carried out as well as the next hearing.

4. The appeal is declared estopped if none of the parties provides for the integration of the adversarial process within the period set by the court.

5. The Council of State, if it finds that the appeal is clearly inadmissible, unacceptable, estopped or unfounded, may not order the integration of the adversary proceedings, where the appeal of other parties is precluded or excluded.

6. For judgments of appeal Article 23, paragraph 1 does not apply.

96. Appeals against the same judgment

1. All separate appeals against the same judgment must be combined in a single trial.

2. Cross-appeals are permitted, pursuant to Articles 333 and 334 of the Code of Civil Procedure.

3. The cross-claim referred to in Article 333 of the Code of Civil Procedure may be directed against any part of the sentence and has to be proposed by the party within sixty days of notification of the judgment or, if earlier, within sixty days from the first notification they received of another appeal.

4. With the cross-claim lodged under Article 334 of the Code of Civil Procedure it is possible to challenge autonomous headings of the judgment; however, if the main appeal is declared inadmissible, the cross-claim loses its effectiveness.

5. The cross-claim referred to in Article 334 of the Code of Civil Procedure must be proposed by the party within sixty days from the date on which they received notification of the main appeal and deposited, together with proof of notification, within the period referred to in Article 45.

6. In the event of the failure to combine various appeals ritually proposed against the same judgment, the decision on one appeal does not lead to the estoppel of the others.

97. Intervention in appeal proceedings

1. All those interested therein can intervene in an appeal, through a notification to all parties.

98. Precautionary measures

1. Without prejudice to Article 111, the appeal court, on a motion by one of the parties, having evaluated the proposed reasons and when serious and irreparable damage may arise from the enforcement, may suspend the enforce-

ment of the judgment under appeal, as well as other appropriate preliminary measures, with an order made in chambers.

2. The proceedings shall be conducted in accordance with the provisions of Book II, Title II, as applicable.

99. Referral to the plenary meeting

1. The section to which the appeal has been assigned, if it detects that the point of law submitted to it for examination has resulted, or might result in contrasts with case law, with an order issued at the request of the parties or *ex officio* may remit the application for examination by the plenary meeting. The plenary meeting, if it sees fit, may return the case to the section.

2. Before the decision, the President of the Council of State, at the request of the parties or *ex officio*, may refer to the plenary meeting any application to resolve broad issues of particular importance or to settle disagreements with case law.

3. If the section to which the application is assigned considers it does not share a principle of law enunciated by the plenary meeting, it sends the determination of the appeal back to the latter with a motivated order.

4. The plenary meeting decides on the entire dispute, unless it decides to state the principle of law and return the judgment to the referring section for the rest.

5. If the plenary meeting considers that the issue is of particular importance, it may still enunciate the legal principle in the interest of the law even when it declares the application inadmissible, unacceptable or estopped, that is, the proceedings extinguished. In such cases, the pronunciation of the plenary meeting has no effect on the contested measure.

Title II

Appeal

100. Appealability of the judgments of the Regional Administrative Courts

1. Against judgments of the Regional Administrative Courts appeal is allowed to the Council of State, without prejudice to the competence of the Council of Administrative Justice for the Region of Sicily for appeals brought against judgments of the Regional Administrative Court of Sicily.

101. Content of the application in appeals

1. The application must indicate the applicant, their defender, the parties against whom the appeal is proposed, the judgment which is being appealed, as well as a brief statement of the facts, the specific complaints against the headings of the judgment in question, the conclusions, the signature of the applicant if they are in court in accordance with Article 22, paragraph 3, or their defender with, in this case, an indication of the special power of attorney released together with that for the judgment in the first instance.

2. Questions and pleas declared absorbed or not examined in the judgment of first instance are understood to be renounced, if they are not expressly proposed again in the appeal, or, for parties other than the appellant, with a brief submitted under penalty of forfeiture within the deadline for appearance in court.

102. Right to pursue the appeal

1. The parties to whom the judgment of first instance referred have the right to appeal.

2. The intervening party may appeal only if they are the holder of an autonomous legal position.

103. Optional reserve of appeal

1. Judgments that are not yet final can be appealed or a reserve of appeal can be deposited, with a notified act within the time limit for appeal and deposited within thirty days with the secretariat of the Regional Administrative Court.

104. New questions and pleas

1. New questions may not be raised in the appeal proceedings, without prejudice to Article 34, paragraph 3, nor new pleas that cannot be raised *ex officio*. However, it may be possible to claim interest and accessories accrued after the judgment under appeal, as well as compensation for damages suffered after the judgment.

2. New evidence and documents may not be admitted, unless the college considers them indispensable for the purposes of deciding the case, or the party shows that it could not present or produce them in the judgment of first instance for reasons not attributable to them.

3. New additional reasons can be offered if the party becomes aware of documents not produced by the other parties in the judgment of first instance from which emerge vices in the acts or contested administrative measures.

105. Referral to the original court

1. The Council of State refers the case to the court of first instance only if there were no adversary proceedings, or the right to defence of one of the parties was infringed, or it declares the nullity of the judgment, or reforms the judgment or order that declined jurisdiction or pronounced on competence or declared the termination or annulment of the judgment.

2. In appeals against the orders of the Regional Administrative Courts which have declined jurisdiction or competence, the proceedings take place in chambers, under Article 87, paragraph 3.

3. The parties have to resume the trial with an application served within a period of ninety days from notification or, if earlier, the communication of the judgment or order.

Title III

Revocation

106. Cases of revocation

1. Except as provided for in paragraph 3, the judgments of the Regional Administrative Courts and the Council of State may be challenged for revocation, in the cases and with the means provided for in Articles 395 and 396 of the Code of Civil Procedure.

2. Revocation can be proposed by appeal before the same court that delivered the contested judgment.

3. Against the judgments of the Regional Administrative Courts, revocation is permitted if the reasons cannot be inferred with the appeal.

107. Appeal against the decision in the judgment for revocation

1. Against the decision handed down in the judgment of revocation, the means of challenge to which the revoked judgment was originally subject are permitted.

2. The ruling delivered in the judgment of revocation cannot be contested for revocation.

Title IV

Third-party proceedings

108. Cases of third-party proceedings

1. A third party may lodge an objection against a judgment of the Regional Administrative Court or the Council of State regarding other subjects, even if *res judicata*, when it prejudices their rights or legitimate interests.

2. The assignees and creditors of one of the parties may lodge an objection to the decision, when it is the cause of damage or collusion against them.

109. Competence

1. Third-party proceedings are lodged with the court which delivered the appealed judgment, except for the case referred to in paragraph 2.

2. If appeal is proposed against the judgment of first instance, the third party must introduce the request referred to in Article 108 by intervening in the appeal. If the third-party proceedings have already been submitted to the court of first instance, the court should declare it estopped and, if the opponent has not yet done so, it sets a deadline for the intervention in the appeal, pursuant to the previous sentence.

Title V

Appeal to the Court of Cassation

110. Grounds for petition

1. Appeal to the highest court is allowed against the decisions of the Council of State only for reasons relating to jurisdiction.

111. Suspension of the sentence

1. The Council of State, if requested by an application notified beforehand to the other parties, in cases of exceptional gravity and urgency, can suspend the effects of the contested judgment and arrange other appropriate precautionary measures. Articles 55, paragraphs 2, 5, 6 and 7, and Article 56, paragraphs 1, first sentence, 2, 3, 4 and 5 apply to the proceedings. A copy of the order shall be transmitted to the Registry of the Court of Cassation.

BOOK FOUR

COMPLIANCE AND SPECIAL RITES

Title I

Compliance proceedings

112. General provisions on compliance proceedings

1. The decisions of the administrative court have to be carried out by the public administration and the other parties.

2. The action of compliance may be proposed to achieve the implementation:

a) of the final judgments of the Administrative Court;

b) of enforceable judgments and other enforceable measures of the administrative courts;

c) of the final judgments and other measures equivalent to them of the ordinary courts, in order to achieve compliance with the obligation of the public administration to comply with the judgment, as regards the case that has been decided;

d) of the final judgments and other measures equivalent to them for which the remedy of compliance is not foreseen, in order to achieve the fulfilment of the obligation of the public administration to comply with the decision;

e) of the enforceable arbitration awards that have become incontrovertible in order to achieve the fulfilment of the obligation to comply with the decision, as regards the case that has been decided.

3. It is possible to propose, also in a single instance in the court of compliance, an action of ordering the payment of sums by way of appreciation and interest accrued after the *res judicata* court judgment, as well as claims for damages related to the impossibility or at least, the non-performance in a specific form, total or partial, of the judgment or its violation or evasion.

4. Paragraph repealed by Article 1, paragraph 1, letter cc), Legislative Decree no. 195 of 15 November 2011.

5. Appeals under this article may also be proposed in order to obtain clarification as to the means of compliance.

113. Court of compliance

1. In the case of Article 112, paragraph 2, letters a) and b), the application is brought before the court which issued the provision compliance with which is being sought; jurisdiction also lies with the Regional Administrative Court for its provisions upheld on appeal with motivation that have the same dispositional and conformative content of the provisions of first instance.

2. In the cases referred to in Article 112, paragraph 2, letters c), d) and e), the application is proposed at the Regional Administrative Court in whose territory the court which delivered the judgment to be complied with is located.

114. Proceedings

1. The action is proposed, also without prior formal notice, with an application notified to the public administration and all the other parties to the final judgment or award compliance with which is being sought; the action is prescribed after ten years have elapsed since the *res judicata*.

2. Together with the application is deposited in certified copies the measure for which compliance is being sought with any proof of its *res judicata*.

3. The court decides with a simplified judgment.

4. The court, in the event the application is accepted:

a) orders compliance, prescribing the means, including through the determination of the content of the administrative decision or the enactment of the same in place of the public administration;

b) declare null and void any acts in violation or circumvention of the *res judicata*;

c) in the case of compliance with judgments that are not *res judicata* or other measures, it shall determine the means of enforceability, considering ineffectual acts issued in violation or circumvention and shall provide accordingly, taking into account the effects arising therefrom;

d) appoint, where necessary, an *ad acta* commissioner;

e) unless this is manifestly unfair, and if there are no other reasons for impediment, it determines, at the request of one party, the sum of money payable by the defendant for each violation or subsequent non-compliance, or for any delay in the carrying out of the *res judicata*; that ruling is enforceable. In actions for compliance relating to the payment of sums of money, the penalty payment in the first sentence runs from the date of communication or notification of the payment ordered in the judgment of compliance; said penalty cannot

be considered manifestly unfair when it is established as an amount equal to statutory interest.

5. If enforcement is sought of an order the court provides with an order.

6. The court examines all the questions relating to the compliance, as well as, between the parties to whom the *res judicata* applies, those linked to the acts of the *ad acta* commissioner. Against the actions of the *ad acta* commissioner the same parties may put forward a claim, in the court of compliance, which is deposited, with prior notification to the counterparties, within sixty days. Acts issued by the court of compliance or its auxiliary may be challenged by third parties extraneous to the judgment under Article 29, using the ordinary procedure.

7. In the event of an appeal, pursuant to paragraph 5 of Article 112, the court provides clarification as to the modes of compliance, also at the request of the commissioner.

8. The provisions of this Title shall also apply to appeals against judicial decisions adopted by the court of compliance.

9. The deadline for the filing of appeals are those provided for in Book III.

115. *Titre exécutoire* and issue of extract of the judicial measure with an enforcement order

1. The judgments of the administrative court which are enforceable are sent, upon request of the parties, as an enforcement order.

2. The orders issued by the administrative courts which order the payment of sums of money also constitute *titre exécutoire* in the forms covered by Book III of the Code of Civil Procedure, and for the registration of *hypothèque*.

3. For the purpose of compliance proceedings under this Title it is not necessary to affix the order for enforcement.

Title II

Rite on access to administrative documents

116. Rite on access to administrative documents

1. Against the decisions and silence on issues of access to administrative documents as well as for the protection of the right of civic access connected

to the infringement of transparency requirements, application is made within thirty days of becoming aware of the contested determination or silence, through notification to the administration and at least one other counterparty. Article 49 applies. The term for bringing cross-claims or additional grounds is thirty days.

2. Pending a judgment to which the request for access is connected, the application referred to in paragraph 1 may be brought by a request lodged with the secretariat of the section to which the main application is assigned, notifying the administration and any potential counterparties. The application is decided by order separately from the main proceedings, namely with the sentence that defines the judgment.

3. The administration may be represented and defended by an employee authorised to do so.

4. The court decides with a judgment in simplified form; upholding the grounds, it orders the exhibition and, where applicable, the publication of the requested documents within a period not exceeding, usually, thirty days, deciding, where appropriate, the relevant methods.

5. The provisions of this article shall also apply to judgments of appeal.

Title III

Protection against the inertia of the public administration

117. Appeals against silence

1. The appeal against silence is proposed, also without prior formal notice, with a notified act to the administration and to at least one counterparty within the deadline at Article 31, paragraph 2.

2. The application is decided by a judgment in simplified form and, in case of total or partial acceptance, the court orders the administration to provide within a period not exceeding, as a rule, thirty days.

3. The court shall appoint, if necessary, an *ad acta* commissioner with the sentence with which it hands down the judgment or subsequently at the request of the interested party.

4. The court examines all of the matters relating to the exact adoption of the measure sought, including those relating to the acts of the commissioner.

5. If during proceedings, the expressed provision or an act connected with the subject of the dispute occurs, this may also be challenged with additional reasons, in the terms and with the procedure foreseen for the new provision, and the entire proceedings continue with this rite.

6. If the action for damages under Article 30, paragraph 4, is brought in conjunction with that referred to in this article, the court may define in chambers the action against the silence and deal with the claim for damages using the ordinary rite.

6-*bis*. The provisions of paragraphs 2, 3, 4 and 6 shall also apply to judgments of appeal.

Title IV

Procedure for injunction

118. Injunctive decree

1. In disputes devolved to the exclusive jurisdiction of the administrative courts, concerning individual rights of a proprietary nature, Chapter I of Title I of Book IV of the Code of Civil Procedure applies. The president or a judge delegated by them is responsible for the injunction. Opposition is expressed with an appeal.

Title V

Abbreviated rites related to special disputes

119. Abbreviated trial for certain matters[1]

1. The provisions of this article shall apply in proceedings involving disputes relating to:

a) measures relating to the procedures for awarding public works, services and supplies, except as provided by Articles 120 and following;

b) measures taken by the independent administrative authorities, with the exception of those relating to the relationship of service with its own employees;

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[1] Translator's Note: the traditional Italian alphabet does not include the letters J, K, W, X and Y and this is reflected in all the alphabetical lists contained herein.

c) measures relating to the procedures for the privatisation or sale of public companies or assets, as well as those relating to the establishment, modification or suppression of companies, businesses and institutions by local authorities;

c-*bis*) measures adopted in the exercise of special powers inherent to activities of strategic importance in the areas of defence and national security, and in the energy, transport and communications sectors;

d) measures of appointment, adopted by resolution of the Council of Ministers;

e) measures for winding up the governing organs of local bodies and those related to them, concerning their formation and operation;

f) measures relating to procedures for the occupation and expropriation of areas destined for the execution of public works or of public interest, and measures of expropriation of inventions adopted under the Code of Industrial Property;

g) measures of the Italian National Olympic Committee or sports federations;

h) ordinances adopted in all emergency situations declared in accordance with Article 5, paragraph 1, of Law no. 225 of 24 February 1992, and consequential commissarial measures;

i) the employment relationship for staff in the information services for security, in accordance with Article 22 of Law no. 124 of 3 August 2007;

l) disputes relating to the procedures and decisions of the public administration in the field of electricity generation plants under Decree Law no. 7 of 7 February 2002, converted, with amendments, by Law no. 55 of 9 April 2002, including those concerning the production of electricity from nuclear sources, regasification terminals, import gas pipelines, thermal power stations with more than 400 MW thermal power, as well as those relating to transport infrastructures included or to be included in the network of the national grid or national network of gas pipelines;

m) measures of the central commission for the definition and application of special protection measures, referring to the application, modification and revocation of special protective measures in respect of collaborators with justice and witnesses;

m-*bis*) disputes relating to the measures of the National Agency of Regulation of the Postal Sector referred to in letter h) of paragraph 2 of Article 37 of Law no. 96 of 4 June 2010, including sanctions and excluding those related to employment;

m-*ter*) measures of the National Agency for the Regulation and Supervision of Water established by Article 10, paragraph 11, of Decree Law no. 70 of 13 May 2011, converted with amendments by Law no. 106 of 12 July 2011;

m-*quater*) individual and collective actions against gender discrimination in the workplace, provided for in Article 36 and following of Legislative Decree no. 198 of 25 July 2006, when they come under the jurisdiction of administrative courts, pursuant to the aforementioned decree;

m-*quinquies*) the acts and the measures taken in carrying out a recovery decision under Article 14 of (EC) Regulation no. 659/1999 of 22 March 1999;

m-*sexies*) the provisions for the deportation of foreign citizens adopted by the Minister of the Interior in accordance with Article 13, paragraph 1 of Legislative Decree no. 286 of 25 July 1998, and those adopted pursuant to Article 3 of Decree-Law no. 144 of 27 July 2005, converted with amendments by Law no. 155 of 31 July 2005.

2. All ordinary procedural time limits are halved except, in judgments of first instance, those for the notification of the introductory application, the cross-claim and additional grounds, as well as those referred to in Article 62, paragraph 1, and those expressly covered in this article.

3. Subject to Article 60, the Regional Administrative Court called upon to rule on the interlocutory application, having ascertained the completeness of the adversary proceedings or arranged the integration thereof, if it accepts, on a first summary examination, the existence of merits of the application and of serious and irreparable damage, fixes the date by order for the discussion on the merits for the first hearing following the expiry of thirty days from the date of the depositing of that order, also allowing the deposition of the necessary documents and acquisition of any other relevant evidence. In the case of rejection of interim relief by the Regional Administrative Court, where the Council of State alters the order of first instance, the pronunciation of the appeal is transmitted to the Regional Administrative Court to arrange the hearing on the merits. In this case, the term of thirty days runs from the date of receipt of the order on the part of the secretariat of the Regional Administrative Court, which gives notice to the parties.

4. With the order referred to in paragraph 3, in cases of extreme gravity and urgency, the Regional Administrative Court or the Council of State can provide the necessary precautionary measures. At the pre-trial proceedings, the provisions of Title II of Book II apply, insofar as they do not derogate from this article.

5. When at least one of the parties, during the hearing, declares an interest in the early publication of the ruling with respect to the judgment, the ruling is published by being deposited with the secretariat, no later than seven days from

the decision in the case. The declaration of the party is certified in the minutes of the hearing.

6. A party can ask the Council of State for the suspension of the enforceability of the ruling, appealing within thirty days from its publication, subject to the reasons to be proposed within thirty days of the notification of the judgment or within three months of its publication. Failure to request the suspension of the enforceability of the ruling does not preclude the possibility of asking for the suspension of enforceability of the judgment after the publication of the reasons.

7. The provisions of this article shall also apply to appeals, revocation and third-party proceedings.

120. Specific provisions for proceedings under Article 119, paragraph 1, letter a)

1. The documents relating to cases of procurement procedures, including procedures for awarding assignments and planning contests and the technical-administrative activities connected to them, related to public works, services or supplies, as well as the connected provisions of the National Anti-Corruption Authority referring to these, may only be challenged by recourse to the competent Regional Administrative Court.

2. In the event of the failure to publicise the call for tenders, the action cannot in any case be brought again after thirty days from the day following the date of publication of the notice of the definitive adjudication under Article 65 and Article 225 of Legislative Decree no. 163 of 12 April 2006, provided that this notice includes the justification of the act by which the contracting authority decided to award the contract without prior publication of the call. In the absence of the advice or the information referred to in this paragraph, or if they do not conform to the requirements contained therein, the action may not, in any case, be brought more than six months from the day following the date of the signing of the contract.

2-*bis*. The measure that determines the exclusions from the procurement process and the admissions to this of the assessment of the individual, economical-financial and technical-professional requirements has to be challenged within a period of thirty days, commencing from its publication by the contracting party under Article 29, paragraph 1, of the Code of Public Procurement adopted in implementation of Law no. 11 of 28 January 2016. The failure to challenge precludes the right to plead illegitimacy deriving from subsequent

acts of the procurement procedures, even by cross-claim. Also inadmissible is the appeal against the proposed adjudication, where available, and other endo-procedural acts without immediate damage.

3. Except as provided in this article and those that follow, Article 119 applies.

4. When the final adjudication is contested, if the contracting authority enjoys the patronage of Advocacy of the State, the application shall be notified, as well as to the Advocacy, also to the contracting authority in its real base, on a date not earlier than the notification to the Advocacy, and for the sole purpose of operating the obligatory suspension of the deadline for the conclusion of the contract.

5. Except as provided for in paragraph 6-*bis*, for challenging the acts referred to in this article, the main or cross-claim, and the additional reasons, also against acts other than those already contested, have to be instituted within thirty days, commencing, for the main application and the additional reasons, from receipt of the notification referred to in Article 79 of Legislative Decree no. 163 of 12 April 2006, or, for calls or notices of tender, which are independently tortious, from the publication referred to in Article 66, paragraph 8, of the same decree; or, in any other case, by the knowledge of the act. For the cross-claim, the deadline is regulated by Article 42.

6. The judgment, without the possibility of its immediate definition at the pre-trial hearing where the presuppositions exist, is in any case defined by a ruling in simplified form at a hearing arranged *ex officio* to be held within forty-five days from the deadline for the constitution of the parties other than the applicant. The hearing date is immediately provided to the parties by the secretariat, by electronic certified mail. In the case of investigative requirements or when there is a need to integrate the adversary proceedings or ensure compliance with the terms for the defence, the definition of merits is postponed, with an order for the investigative measures, or the integration of the adversary proceedings, or arranging a postponement to ensure compliance with the terms for the defence, to a hearing to be held within thirty days.

6-*bis*. In the cases referred to in paragraph 2-*bis*, judgment is defined in a session in chambers to be held within thirty days of the expiry of the deadline for the constitution of the parties other than the applicant. At the request of the parties, the application is defined, in the same terms, in public hearing. The decree arranging the hearing is then sent to the parties fifteen days before the hearing. The parties may submit documents up to ten clear days before the

hearing, briefs up to six clear days before, and present replies to new documents and new briefs lodged ahead of the session in chambers, up to three clear days in advance. The session in chambers or the hearing can only be postponed for investigative requirements, to integrate the adversary proceedings, to propose additional grounds or a cross-claim. The preliminary order fixes a term for the depositing of documents not exceeding three days from the communication or, if earlier, the notification thereof. The new session in chambers must be fixed at no later than fifteen days. The case cannot be removed from the role. The appeal has to be lodged within thirty days of the notification or, if earlier, notification of the judgment and the extended deadline from its publication is not applicable.

7. With the exception of the cases referred to in paragraph 2-*bis*, the new documents relating to the same tendering procedure should be challenged with an application for additional reasons.

8. The court decides *ad interim* on the injunction, even if it orders investigative actions, grants deadlines to the defence, or if it raises objections or they are proposed.

8-*bis*. The college, when it uses the precautionary measures referred to in paragraph 4 of Article 119, may subordinate their efficacy, even if the decision does not lead to irreversible effects, to the imposition, also by a guarantor, of a security proportionate to the value of contract and in any case no more than 0.5 per cent of said value. These measures are applied for a period not exceeding sixty days from the publication of the relative ordinance, subject to what is provided in paragraph 3 of Article 119.

8-*ter*. In the preliminary decision, the court takes into account the requirements of Article 121, paragraph 1, and Article 122, and of the overriding reasons relating to a general interest in the implementation of the contract, giving an account of this in the grounds for the decision.

9. The Regional Administrative Court shall deposit the ruling with which it defines the judgment within thirty days from the hearing; the parties may request advance publication of the ruling, which takes place within two days of the hearing. In the cases referred to in paragraph 6-*bis*, the Regional Administrative Court deposits the decision within seven days from the hearing, whether public or *in camera*; the parties may request the advance publication of the ruling, which takes place within two days of the hearing.

10. All the parties' submissions and the decisions of the court must be synthetic and the judgment is drafted, ordinarily, in the forms provided for in Article 74.

11. The provisions of paragraphs 2-*bis*, 3, 6, 6-*bis*, 8, 8-*bis*, 8-*ter*, 9, second sentence, and 10 also apply to appeal proceedings before the Council of State, against the judgment or against the preliminary order, and in cases of revocation or third-party proceedings. A party can appeal against the ruling, in order to obtain suspension prior to the publication of the judgment.

11-*bis*. In the case of submission of offers for several lots, the appeal is proposed with cumulative application only if identical grounds for appeal against the same act can be deduced.

121. Inefficacy of the contract in cases of serious violations

1. The court which annuls the definitive award declares the inefficacy of the contract in the following cases, specifying in relation to the parties' submissions and the evaluation of the gravity of the conduct of the contracting authority and of the actual situation, if the declaration of inefficacy is limited to the operations still to be carried out on the date of the publication of the ruling or whether it operates retroactively:

a) if the definitive award was made without prior publication of a notice of tender announcing the call for competition in the EU Official Journal or in the Official Gazette of the Italian Republic, when such publication is foreseen by Legislative Decree no. 163 of 12 April 2006;

b) if the definitive award was made using a procedure negotiated without a call for tenders or awarded in economy other than in the cases allowed and this resulted in the failure to publicise the call for tenders or notice announcing the call for competition in the EU Official Journal or in the Official Gazette of the Italian Republic, when such publication is foreseen by Legislative Decree no. 163 of 12 April 2006;

c) if the contract was entered into without complying with the dilatory deadline established by Article 11, paragraph 10 of Legislative Decree no. 163 of 12 April 2006, if this infringement deprived the appellant of the opportunity to avail themselves of the remedies before the conclusion of the contract and provided that such a violation, combined with the vices in its final award, influenced the ability of the applicant to obtain the definitive award;

d) if the contract was entered into without complying with the mandatory suspension of the deadline for the conclusion resulting from the commencement of the judicial review of the final award, in accordance with Article 11, paragraph 10-*ter* of Legislative Decree no. 163 of 12 April 2006, if this violation, combined with the vices in its final award, influenced the ability of the applicant to obtain the definitive award.

2. The contract remains effective even in the presence of the violations referred to in paragraph 1 if it can be established that the overriding reasons relating to a general interest require that its effects are maintained. Among the overriding reasons, among other things, are essential ones of a technical or other nature, such as to make it clear that the remaining contractual obligations can only be fulfilled by the present executor. Economic interests can be considered as overriding reasons only in exceptional circumstances where the inefficacy of the contract would lead to disproportionate consequences, also with regard to the possible lack of proposition of the request for taking over the contract in cases where the vice in the awarding does not involve an obligation to renew the tendering process. Overriding reasons are not constituted by economic interests directly linked to the contract, which include, among other things, the costs arising from the delay in the execution of the contract itself, from the need to launch a new procurement procedure, from the change of economic operator and from the obligations of law resulting from the declaration of inefficacy.

3. The secretariat will transmit the judgments that provide pursuant to paragraph 2 to the Prime Minister's Office – Department for European Community Policies.

4. In cases where, despite the violations, the contract is considered efficacious or the inefficacy is temporally limited, the alternative penalties provided for in Article 123 apply.

5. The inefficacy of the contract provided for in paragraph 1, letters a) and b), does not apply where the contracting authority has put the following procedure in place:

a) with a motivated act prior to the tendering process declared it believes that the procedure without prior publication of the call for tenders or notice announcing the call for competition in the EU Official Journal or in the Official Gazette of the Italian Republic, is allowed by Legislative Decree no. 163 of 12 April 2006;

b) published, respectively, for contracts of EU relevance and those under the threshold, in the EU Official Journal or in the Official Gazette of the Italian Republic a voluntary notice for prior transparency in accordance with Article 79-*bis* of Legislative Decree no. 163 of 12 April 2006, expressing its intention to conclude the contract;

c) the contract is not concluded before the expiry of a period of at least ten days from the day following the date of publication referred to in letter b).

122. Inefficacy of the contract in other cases

1. Apart from the cases mentioned in Article 121, paragraph 1, and Article 123, paragraph 3, the court which overturns the final award determines whether to declare the contract inefficacious, establishing the starting date, taking into account, in particular, the interests of the parties, the effective possibility for the applicant to obtain the award in the light of the vices found, the state of implementation of the contract and the possibility of taking over the contract, in cases where the vice in the award does not entail an obligation to renew the tendering process and the application to take over has been made.

123. Alternative sanctions

1. In the cases referred to in Article 121, paragraph 4, the administrative court identifies the following alternative sanctions to be applied alternatively or cumulatively:

a) the financial penalty against the contracting authority, of an amount from 0.5% to 5% of the value of the contract, intended as the price of adjudication, which is paid into the state budget – with reference to Chapter 2301, section 8 "Fines, administrative fines and penalties imposed by judicial and administrative authorities, with the exception of those of a fiscal nature" – within sixty days after the *res judicata* imposing sanctions; after the period prescribed for payment an increase equal to one-tenth of the penalty for each semester of delay will be applied. The sentence that applies the sanctions is communicated by the secretariat to the Ministry of Economy and Finance within five days of its publication;

b) the reduction of the duration of the contract, where possible, from a minimum of ten per cent to a maximum of fifty per cent of the remaining term on the date of the publication of the ruling.

2. The administrative court shall apply the sanctions ensuring observance of the adversarial principle and determines the measure so that they are effective, dissuasive and proportionate to the value of the contract, the gravity of the conduct of the contracting party and the work carried out by the contracting party to eliminate or mitigate the consequences of the violation. To this end, the provisions of Article 73, paragraph 3 apply. In any case, any order for payment of damages does not constitute an alternative sanction and is payable in addition to the alternative penalties.

3. The court applies the sanctions referred to in paragraph 1 also when the contract was entered into without complying with the deadline established for

the conclusion of the contract, or where it was entered into without complying with the suspension of the conclusion arising from the proposed judicial review of the final award, when the violation has not deprived the applicant of the opportunity to avail themselves of the remedies available before the conclusion of the contract and has not affected the ability of the applicant to obtain the award.

124. Protection in specific and equivalent form

1. The acceptance of the application to proceed with the award and the contract is still conditioned by the declaration of inefficacy of the contract pursuant to Article 121, paragraph 1, and Article 122. If the court does not declare the inefficacy of the contract, it provides for equivalent compensation to the harm demonstrably suffered.

2. The conduct at trial of the party which, without good reason, did not put forward the application referred to in paragraph 1, or has not made themselves available to take over the contract, shall be considered by the court under Article 1227 of the Civil Code.

125. Further procedural provisions for disputes relating to strategic infrastructure

1. In actions concerning the procedures for the planning, approval and implementation of infrastructure and production facilities and related activities of expropriation, occupation and subjection, referred to in Part II, Title III, Chapter IV of Legislative Decree no. 163 of 12 April 2006, in addition to the provisions of this Chapter, with the exception of Article 122, the following provisions shall apply.

2. In the pronunciation of the protective measure, the probable consequences of the measure for all the interests likely to be harmed have to be taken into account, as well as the pre-eminent national interest in the realisation of the work, and for the purpose of the acceptance of the interlocutory application, it is necessary also to evaluate the irreparable injury to the appellant, whose interest still has to be compared with that of the awarding authority in the speedy carrying out of the procedures.

3. Without prejudice to the application of Articles 121 and 123, outside of the items referred to therein, the suspension or annulment of the award does not imply the termination of the contract already stipulated, and compensation

for any damages suffered can only be equivalent. The provisions of Article 34, paragraph 3 apply.

4. The provisions of paragraph 3 shall also apply to disputes relating to:

a) the procedures referred to in Article 140 of Legislative Decree no. 163 of 12 April 2006;

b) the procedures for the planning, approval and implementation of interventions identified in the institutional development contract under Article 6 of Legislative Decree no. 88 of 31 May 2011;

c) the works referred to in Article 32, paragraph 18, of the Decree-Law no. 98 of 6 July 2011, converted into Law no. 111 of 15 July 2011.

Title VI

Litigation on elections

Chapter I

Provisions common to electoral disputes

126. Scope of jurisdiction over electoral disputes

1. The administrative court has jurisdiction over elections concerning the renewal of the elected bodies of municipalities, provinces, regions and the election of the members of the European Parliament from Italy.

127. Exemption from fiscal burdens

1. The acts are exempt from the *contributo unificato* (court fees) and all other taxes.

128. Inadmissibility of the extraordinary appeal to the President of the Republic

1. In matters referred to in this Title no extraordinary appeal to the President of the Republic is permitted.

Chapter II

Early protection against acts of exclusion from the preparatory electoral processes for municipal, provincial and regional elections

129. Judgment against acts of exclusion from the preparatory process for municipal, provincial and regional elections

1. Measures that are immediately infringing on the applicant's right to participate in the preparatory electoral process for municipal, provincial and regional elections and the election of the members of the European Parliament from Italy are open to challenge before the competent Regional Administrative Court within three days of the publication, also by affixing, or communication, if foreseen, of the contested acts.

2. Acts other than those referred to in paragraph 1 are contested at the conclusion of the proceedings together with the act of proclamation of the elected.

3. The appeal referred to in paragraph 1, in the period laid down therein, subject to forfeiture, must be:

a) notified directly by the applicant or by their defender, exclusively by direct delivery, certified e-mail or fax, to the office which issued the contested act, the Prefecture and, where possible, any possible counterparties; in any case, the office that issued the contested act publicises the appeal by affixing an integral copy thereof in the spaces provided for this purpose always accessible to the public, and this publication has the value of notification by public proclamation for all the counterparties; the notification is considered as having taken place on the day of the aforementioned affixing;

b) deposited with the secretariat of the court, which shall publish it on the administrative justice website and affix it in the appropriate spaces accessible to the public.

4. The parties if they are present in person in court and are not certified e-mail address holders listed in the public directory indicate respectively, in the application or the acts of constitution, the certified e-mail address or fax number to be used for any communications and notifications.

5. The hearing is held, without the possibility of postponement even in the presence of a cross-claim, within three days of the deposition of the application, without prior warning. The notification of the cross-claim shall take place with the forms provided for the main action.

6. The judgment is decided at the end of the hearing with a decision in simplified form, to be published on the same day. The reasons may consist of no more than a simple reference to the arguments contained in the documentation of the parties that the court intends to accept and adopt.

7. The ruling that has not been appealed shall immediately be communicated by the secretariat of the court to the office which issued the contested act.

8. The appeal, within two days of the publication of the judgment, under penalty of forfeiture, must be:

a) notified directly by the applicant or by their defender, exclusively by direct delivery, certified e-mail or fax, to the office which issued the contested act, the Prefecture and, where possible, any possible counterparties; in any case, the office that issued the contested act publicises the appeal by affixing an integral copy thereof in the spaces provided for this purpose always accessible to the public, and this publication has the value of notification by public proclamation for all the counterparties; the notification is considered as having taken place on the day of the aforementioned affixing: for the parties taking part in the judgment of first instance transmission is to the certified e-mail address or fax number indicated in the pleadings pursuant to paragraph 4;

b) a copy deposited with the Regional Administrative Court which handed down the decision in the first instance, which shall affix it in appropriate spaces accessible to the public;

c) deposited with the secretariat of the Council of State, which shall publish it on the administrative justice website and affix it in appropriate spaces accessible to the public.

9. On appeal, the provisions of this article apply.

10. In actions referred to in paragraph 1 the provisions of Article 52, paragraph 5, and Article 54, paragraphs 1 and 2 shall not apply.

Chapter III

Rite relating to the elections of municipalities, provinces, regions and the European Parliament

130. Proceeding of first instance in relation to the elections of municipalities, provinces, regions and the European Parliament

1. Except as provided for in Chapter II of this Title, against all the acts of the electoral process following the electoral meetings, application can only be made at the conclusion of the electoral process, together with the impugning of the act of proclamation of the elected:

a) for elections in municipalities, provinces and regions, by any candidate or voter in the entity where the election takes place, at the Regional Administrative Court in whose jurisdiction the aforementioned entity is based, to be deposited with the secretariat of the court within the period of thirty days from the proclamation of those elected;

b) for elections of the Italian members of European Parliament, by any candidate or voter, before the Regional Administrative Court of Lazio, in Rome, to be deposited with its secretariat within the period of thirty days from publication in the Official Gazette of the list of candidates declared elected.

2. The President, by decree:

a) schedules a hearing to discuss the case urgently;

b) appoints a rapporteur;

c) orders the notifications, authorising, where necessary, any suitable means;

d) orders the filing of documents and the acquisition of any other necessary evidence;

e) orders that the secretariat immediately communicate the decree, by all appropriate means, to the applicant.

3. The application shall be served, together with the decree of the date of the hearing, by the person who made it, within ten days from the date of communication of the decree referred to in paragraph 2:

a) to the entity the election relates to, in the case of elections in municipalities, provinces and regions;

b) to the National Election Office, in the case of the election of the Italian members of the European Parliament;

c) to the other parties who have an interest, and in any case to at least one other party.

4. Within ten days from the last notification referred to in paragraph 3, the applicant shall deposit with the secretariat of the court a copy of the application and the decree, with proof of notification, along with the acts and documents of the proceedings.

5. The respondent authority and the counterparties deposit their counter deductions with the secretariat in the fifteen days following that on which the notification was completed in their regard.

6. Upon completion of the hearing, the college, after hearing the parties if present, pronounces the sentence.

7. The judgment is published no later than the day following the decision in the case. If the complexity of the issues does not allow for the publication of the judgment, in the same period as in the preceding sentence, the ruling is published by being deposited with the secretariat. In this case, the judgment shall be published within the next ten days.

8. The judgment shall immediately be transmitted in copy, by the secretariat of the Regional Administrative Court, to the mayor, the provincial government, the regional government, or the president of the National Electoral Office, according to the entity where the election took place. The municipality, province or region whose election it is, within twenty-four hours of receipt, provides for the publication for fifteen days of the ruling in the register or official bulletin of the organisation in question by means of the secretary who is directly responsible. In the case of elections relating to municipalities, provinces or regions, the judgment is also communicated to the Prefect. The same parties after the *res judicata* will make a note of its finality on the published copy.

9. The Regional Administrative Court, when it accepts the application, corrects the result of the election and replaces the candidate(s) who were unlawfully proclaimed with those who are entitled to be. In the event of an appeal against the elections to the European Parliament, the votes of the sections whose operations were cancelled have no effect.

10. All procedural deadlines other than those listed in this article and Article 131 are halved compared to the terms of the ordinary trial.

11. The municipal, provincial or regional authority, whose election is involved, notifies the parties concerned of the correction of the election result. The National Election Office shall notify the correction of the election result to the interested parties and the secretariat of the European Parliament.

131. Procedure on appeal in relation to the elections in municipalities, provinces and regions

1. The appeal against the judgments referred to in Article 130 is brought within the period of twenty days from notification of the judgment, for those who have to be compulsorily notified; for other candidates or voters within twenty days from the last day of the publication of the judgment in the town hall of the municipality.

2. The president shall arrange as a matter of urgency an hearing. For the judgment, the rules that apply are those governing appeals before the Council of State, and its terms are halved compared to those of the ordinary trial.

3. The sentence, when, in reforming that of the first instance, accepts the original application, provides in accordance with Article 130, paragraph 9.

4. The judgment shall immediately be transmitted in copy, by the secretariat of the Council of State, to the subjects referred to in Article 130, paragraph 8, who provide for the additional obligations provided for therein, and those referred to in paragraph 11 of Article 130.

132. Procedure on appeal in relation to the election for the European Parliament

1. The parties to the proceedings of first instance may appeal through a declaration to be presented to the secretariat of the Regional Administrative Court which issued the judgment within a period of five days from the publication of the judgment or, failing that, of the ruling.

2. The appeal containing the grounds must be deposited within thirty days from the receipt of the notice of publication of the judgment.

3. For matters not provided in this article, the provisions of Article 131 apply.

BOOK V

FINAL REGULATIONS

133. Matters of exclusive jurisdiction[2]

1. Resolved exclusively to the jurisdiction of the administrative court, unless there are further legal provisions, are:

a) disputes relating to:

1) claim for damages caused as a result of intentional or negligent failure to observe the deadline for conclusion of the administrative procedure;

2) formation, conclusion and enforcement of additional or substitute agreements of administrative measures and agreements between public administrations;

3) the silence referred to in Article 31, paragraphs 1, 2 and 3, and express measures adopted in the verification of certified signalling, reporting and declaring of the commencement of activities, referred to in Article 19, paragraph 6-*ter* of Law no. 241 of 7 August 1990;

4) determination and payment of compensation due in the event of revocation of the administrative measure;

5) invalidity of the administrative measure in violation or circumvention of the *res judicata*;

6) the right of access to administrative documents and violation of the obligations of administrative transparency;

a-*bis*) disputes concerning the application of Article 20 of Law no. 241 of 7 August 1990;

b) disputes relating to acts and measures relating to transactions concerning the concession of public assets, with the exception of disputes concerning compensation, royalties and other fees, and those attributed to the public water courts and the Superior Court of Public Waters;

c) disputes in the field of public services related to public service concessions, except those relating to compensation, royalties and other charges, or relating to measures adopted by the public administration or the operator of a

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[2] Translator's Note: the traditional Italian alphabet does not include the letters J, K, W, X and Y and this is reflected in all the alphabetical lists contained herein.

public service in an administrative procedure, or again relating to the award of a public service, and the supervision and control of the operator, as well as related to supervision of the credit, insurance and securities market, pharmaceutical services, transport, telecommunications and public utilities;

d) disputes concerning the exercise of the right to seek and obtain the use of information technology in communications with the public administrations and the operators of public state services;

e) disputes:

1) relating to procedures for awarding public works, services, supplies, performed by parties in any case required, in selecting their contractor or partner, to apply European Community legislation, that is, to respect the procedures of public procurement provided by state or regional legislation, including those relating to damages and with extension of the exclusive jurisdiction to the declaration of the inefficacy of the contract following the annulment of the award and alternative sanctions;

2) relating to the ban on the tacit renewal of contracts for public works, services, supplies, related to the revision clause of the price and to its application in continuous or periodic contracts, in the case referred to in Article 115 of Legislative Decree no. 163 of 12 April 2006, as well as those concerning the implementation measures of price adjustment in accordance with Article 133, paragraphs 3 and 4 of the same decree;

f) disputes relating to the acts and measures of public administrations on urban planning and construction, covering all aspects of the use of the territory, and subject to the jurisdiction of the Superior Court of Public Waters and the Liquidator for Civic Uses, as well as the ordinary court for disputes concerning the determination and payment of compensation as a result of the adoption of acts of expropriation or of an ablative nature;

g) disputes relating to the acts, measures, agreements and behaviour related, also indirectly, to the exercise of a public power, by public administrations in matters of expropriation for public use, without prejudice to the jurisdiction of the ordinary courts for those relating to the determination and payment of compensation as a result of the adoption of acts of expropriation or of an ablative nature;

h) disputes relating to expropriation orders in the public interest of industrial inventions;

i) disputes concerning labour relations with staff under a public law system;

l) disputes relating to all measures, including sanctions and excluding those relating to the relationship of privatised employment, adopted [by the Bank of

Italy], by the bodies referred to in Articles 112-*bis*, 113 and 128-*duodecies* of Legislative Decree no. 385 of 1 September 1993, [by the National Commission for Companies and Stock Exchange], by the Competition Authority, the Authority for Communications, the Authority for Electricity and Gas, and other Authorities established under Law no. 481 of 14 November 1995, the Authority for the Supervision of Public Works Contracts, Services and Supplies, the Supervisory Commission on Pension Funds, the Commission for the Evaluation, Transparency and Integrity of the Public Administration, the Institute for the Supervision of Private Insurance, including disputes concerning applications against acts that apply penalties under Article 326 of Legislative Decree no. 209 of 7 September 2005[3];

m) disputes concerning the provisions regarding electronic communications, including those relating to the imposition of easement, as well as the judgments concerning the allocation of the frequency-use rights, the tendering process and other procedures referred to in paragraphs 8 to 13 of Article 1 of Law no. 220 of 13 December 2010, including the procedures set out in Article 4 of Decree-Law no. 34 of 31 March 2011, converted with amendments by Law no. 75 of 26 May 2011;

n) disputes relating to administrative sanctions and the measures adopted by the organism of regulation in the field of railway infrastructure in accordance with Article 37 of Legislative Decree no. 188 of 8 July 2003;

o) disputes, including claims for damages, relating to the procedures and decisions of the public administration concerning energy production, regasification terminals, import gas pipelines, thermal power stations, as well as those relating to transport infrastructure included or to be included in the network of the national grid or national network of gas pipelines;

p) disputes relating to the ordinances and measures taken by the commissioner in all emergency situations declared in accordance with Article 5, paragraph 1, of Law no. 225 of 24 February 1992, as well as the acts, measures and orders issued pursuant to Article 5, paragraphs 2 and 4, of Law no. 225 of 1992 and disputes related to the overall cycle of waste management, even if established by behaviour of the public administration that can be traced, even

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[3] With sentence no. 94, of 15 April 2014, the Constitutional Court declared, among other things, the constitutional illegitimacy of letter l) in the part in which it attributes to the exclusive jurisdiction of the amministrative court, with the cognisance extended to the merit, and to the functional competence of the TAR Lazio based in Rome, matters related to sanctions erogated by the Bank of Italy.

indirectly, to the exercise of public power, when also related to constitutionally protected rights;

q) disputes involving these measures which are also implementable and urgent, issued by a mayor in matters of public order and security, public safety and urban security, construction and local police, public and city hygiene;

r) disputes concerning measures relating to the discipline or banning of unhealthy or hazardous industries;

s) disputes relating to acts and measures taken in breach of the provisions relating to damage to the environment, as well against the silent non-compliance of the Minister for the Environment and Protection of Land and Sea, and for compensation for damage suffered as a result of the delay in the activation, by the same Minister of the precautionary, preventive or containment measures against environmental damage, as well as those inherent in ministerial orders for environmental restoration and compensation for environmental damage;

t) disputes relating to the application of the additional levy on milk and dairy products;

u) disputes relating to measures concerning passports;

v) disputes between the State and its creditors regarding the interpretation of contracts concerning government securities or the laws relating to these or, in any case, the public debt;

z) disputes relating to acts of the Italian National Olympic Committee or sports federations not reserved to the organs of sports law, except those regarding proprietary relationships between clubs, associations and athletes;

z-*bis*) disputes relating to all the measures, including sanctions and excluding those related to employment, adopted by the National Agency of Regulation of the Postal Sector referred to in letter h) of paragraph 2 of Article 37 of Law no. 96 of 4 June 2010;

z-*ter*) disputes concerning the provisions of the National Agency for the Regulation and Supervision in the Field of Water established by Article 10, paragraph 11, of Decree-Law no. 70 of 13 May 2011, converted with amendments by Law no. 106 of 12 July 2011;

z-*quater*) disputes concerning the measures adopted pursuant to Article 3, paragraph 2, of Legislative Decree no. 149 of 6 September 2011;

z-*quinquies*) disputes concerning the exercise of special powers inherent to activities of strategic importance in the areas of defence and national security, and in the energy, transport and communications sectors;

z-*sexies*) disputes relating to the acts and measures granting state aid in breach of Article 108, paragraph 3, of the Treaty on the Functioning of the Eu-

ropean Union and in disputes relating to acts and measures taken in pursuance of a recovery decision under Article 14 of (EC) Regulation no. 659/1999 of 22 March 1999, regardless of the form of aid and the subject that granted it.

134. Matters of jurisdiction extended to merits

1. The administrative courts shall exercise jurisdiction with cognisance extended to the merits in disputes concerning:

a) the implementation of enforceable judicial decisions or *res judicata* in the proceedings referred to in Title I of Book IV;

b) the acts and operations in electoral matters, attributed to the administrative jurisdiction;

c) the financial penalties whose contestation is referred to the jurisdiction of the administrative courts, including those applied by independent administrative authorities, and those provided for in Article 123[4];

d) disputes about the boundaries of territorial bodies;

e) the refusal to certify cinema films referred to in Article 8 of Law no. 161 of 21 November 1962.

135. Mandatory functional competence of the Regional Administrative Court of Lazio, in Rome[5]

1. Devolved to the mandatory jurisdiction of the Regional Administrative Court of Lazio, in Rome, in the absence of other legal provisions, are:

a) disputes concerning the measures relating to the ordinary judges adopted under Article 17, first paragraph, of Law no. 195 of 24 March 1958, as well as those concerning the measures relating to administrative judges adopted by the Presidential Council of Administrative Justice;

b) disputes relating to the measures of the Authority for Competition and the Market, and those of the Authority for Communications;

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[4] With sentence no. 162, of 27 June 2012, the Constitutional Court declared, among other things, the constitutional illegitimacy of this letter in the part in which it attributes to the exclusive jurisdiction of the amministrative court, with the cognisance extended to the merit, and to the functional competence of the TAR Lazio based in Rome, matters related to sanctions erogate by Consob.

[5] Translator's Note: the traditional Italian alphabet does not include the letters J, K, W, X and Y and this is reflected in all the alphabetical lists contained herein.

c) disputes referred to in Article 133, paragraph 1, letter l), except those referred to in Article 14, paragraph 2, as well as disputes referred to in Article 104, paragraph 2, of the Consolidated Law on banking and credit, as in Legislative Decree no. 385 of 1 September 1993;

d) disputes concerning the ministerial provisions referred to in Article 133, paragraph 1, letter m), as well as the judgments concerning the allocation of frequency-use rights, the tendering process and the other procedures referred to in paragraphs 8 to 13 of Article 1 of Law no. 220 of 13 December 2010, including the procedures set out in Article 4 of Decree Law no. 34 of 31 March 2011, converted with amendments by Law no. 75 of 26 May 2011;

e) disputes relating to the ordinances and the commissioner's measures taken in all emergency situations declared in accordance with Article 5, paragraph 1, of Law no. 225 of 24 February 1992, as well as the acts, measures and orders issued pursuant to Article 5, paragraphs 2 and 4, of Law no. 225 of 1992;

f) disputes as referred to in Article 133, paragraph 1, letter o), limited to those concerning the production of electricity from nuclear plants, regasification terminals, import gas pipelines, thermal power stations with more than 400 MW thermal power, as well as those relating to transport infrastructure included or to be included in the network of the national grid or national network of gas pipelines, except as provided in Article 14, paragraph 2;

g) disputes referred to in Article 133, paragraph 1, letter z);

h) disputes concerning the exercise of special powers inherent to activities of strategic importance in the areas of defence and national security, and in the energy, transport and communications sectors;

i) disputes concerning the removal of non-EU citizens for reasons of public order or national security;

l) disputes concerning expulsion measures taken against EU citizens for reasons of public order or national security referred to in Article 20, paragraph 1 of Legislative Decree no. 30 of 6 February 2007, as amended;

m) disputes against the measures provided for by Legislative Decree no. 109 of 22 June 2007;

n) disputes covered by this Code relating to the elections of the Italian members of the European Parliament;

o) disputes relating to the employment of the staff of the DIS, AISI and AISE;

p) disputes attributed to the jurisdiction of the administrative courts arising from the application of Title II of Book III of Legislative Decree no. 159 of 6 September 2011, relating to the National Agency for the Management and Use of Goods Seized and Confiscated from Organised Crime;

q) disputes relating to the measures taken under Articles 142 and 143 of the consolidated text of the laws on local government, under Legislative Decree no. 267 of 18 August 2000;

q-*bis*) disputes as referred to in Article 133, paragraph 1, z-*bis*);

q-*ter*) disputes as referred to in Article 133, paragraph 1, letter z-*ter*);

[q-*quater*) disputes relating to the regulations issued by the Autonomous Administration of State Monopolies on gambling for cash prizes and those issued by the Police Authority for the issue of authorisations in relation to gambling for cash prizes][6];

q-*quinquies*) disputes relating to decisions taken under Article 24, paragraph 2, letter b) of Regulation (EC) No. 1987/2006 of the European Parliament and Council of 20 December 2006 on the establishment, operation and use of the second-generation Schengen Information System (SIS II).

2. Excluded from the cases of mandatory jurisdiction under paragraph 1 are disputes relating to labour relations for public employees, except those referred to in letter o) of the aforementioned paragraph 1.

136. Provisions on communications and IT deposits

1. Defenders indicate in the application or in the first act of defence a fax number, which can also be different from that of the domiciliary. Communication by fax is only used if it is impossible to carry out communication by certified e-mail according to public records, because of a failure of the IT system of administrative justice. It is the responsibility of defenders to notify the secretariat and the other parties of any change of fax number or certified e-mail address. For the purposes of the efficacy of the communications of the secretariat it is sufficient that only one of the communications sent to each member of the defence team arrive successfully.

2. The defenders, the parties where they are in court in person and the auxiliaries of the court deposit all the acts and documents by electronic means. In exceptional cases, also in view of particular reasons of confidentiality related to the position of the parties or the nature of the dispute, the president of the

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[6] With sentence no. 174, 13 June 2014, the Constitutional Court declared the constitutional illegitimacy of Article 135, paragraph 1, lett. q *quater*, in the part in which it foresees the attribution to the mandatory competence of the TAR Lazio, based in Rome, disputes reguarding the provisions issued by the Police relating to gambling for cash prizes because of its contrast with the regional principle of administrative justice.

court or of the Council of State, the president of the section if the appeal is already incardinated or the college if the matter rises at the hearing may exempt, subject to a motivated decision, the use of the means of subscription and deposit referred to in paragraph 2-*bis* and the first sentence of this paragraph; in these cases and in other cases of exclusion of the use of electronic means provided by the decree referred to in Article 13, paragraph 1, of the implementing rules, the records and documents shall be deposited and saved.

2-*bis*. Except in the cases referred to in paragraph 2, all the acts and the measures of the court, its auxiliaries, the staff of the courts and the parties sign with a digital signature. The implementation of this paragraph shall not lead to new or increased burdens on the public finances.

2-*ter*. When defence counsel deposits the computerised copy by electronic means, also by image, of a pleading of a party, a court order or a document produced analogically and kept in original or certified copy, they attest to the conformity of the copy of that act by means of the affidavit referred to in Article 22, paragraph 2 of the code provided in the Legislative Decree no. 82 of 7 March 2005. A similar power of attestation of conformity is extended to the acts and measures present in the IT file, resulting in exemption from payment of the copy rights. This excludes the release of the certified copy of the enforcement order under Article 475 of the Code of Civil Procedure, the exclusive competence of the secretariats of the courts. The copy provided with an attestation of conformity is equivalent to an original or certified copy of the act or measure. In the fulfilment of the attestation of conformity referred to in this paragraph defenders assume to all effects the role of public officials.

2-*quater*. The president of the section or the college if the question arises during the hearing may permit the individual summonsed by the same court, who cannot deposit pleadings or documents by PEC, to deposit them by upload through the institutional website.

137. Financial provision

1. The competent authorities shall ensure the implementation of the code in the field of human, instrumental and financial resources available under current legislation, but, in any case, without new or increased burdens on public finances.

APPENDIX 2

Implementing rules

Title I

Registers - Secretariat opening hours

1. General register of appeals

1. A register of the applications is kept at each judicial office, divided into columns, in which is recorded all the information required to ascertain exactly the date of presentation of the application, the cross-claim, the counterclaim, additional reasons, the demand for intervention, the documents relating to the case that have been produced, as well as the notifications delivered, acknowledgement of the payment of the court fees, a record of the investigations arranged or carried out and the measures taken, information about any appeals brought against the measures of the court and their outcome. The lodging of the appeal is recorded when the secretariat of the court receives notice thereof under Article 6, paragraph 2, of Appendix 2, or under Article 369, paragraph 3, of the Code of Civil Procedure, or under Article 123 of the provisions implementing the Code of Civil Procedure. The secretariat of the court to which the appeal is sent immediately sends a copy of the court order that lays out the appeal.

2. Appeals are recorded daily in the order in which they are presented.

3. The register is endorsed and signed on each page by the secretariat, with a note at the end of the number of pages of which the register is composed.

4. The register is closed every day with the signature of an official from the general secretariat.

2. Special roles and registers, collation of measures and forms of communication

1. The secretariats of the organs of administrative justice maintain the following registers:

a) the register of dates for hearings, endorsed and signed on each page by the general secretariat, with an indication at the end of the number of pages of which the register is composed;

b) the register of requests for hearings;
c) the register for the minutes of the hearings;
d) the register for the decrees and orders of the president;
e) the register for the supervision orders;
f) the register for the judgments and other collegial measures;
g) the register for the applications dealt with benefiting from legal aid;
g-*bis*) the register of the measures of the plenary meeting.

2. The secretariat, having received the application referred to in letters a) and b) of paragraph 1, notes it in the relative registers and provides a receipt, if requested.

3. In the registers referred to in letters d) and e) of paragraph 1 the particulars for the communication of the measures are recorded.

4. The secretariat deals with drawing up the roles according to the instructions of the president.

5. The secretariat deals with drawing up the original version of the provisions of the court, collecting the required signatures and adding the stamp and signature between the pages that compose them.

6. The secretariat shall communicate with the parties pursuant to Article 136, paragraph 1, of the Code, or otherwise, in the forms provided for in Article 45 of the provisions for the implementation of the Code of Civil Procedure.

3. Registering in automated form

1. The registers referred to in Articles 1 and 2 are carried out in automated form in accordance with the Decree of the President of the Council of Ministers no. 52 of 8 January 1999, and further applicable legislation.

2. The secretariat, on request, issues a declaration of what has been registered to the interested party.

4. Opening hours

1. The secretariats are open to the public during the hours established by the President of the Regional Administrative Court, its branch, the Council of State and the Council of Administrative Justice for the Region of Sicily.

2. In cases where the Code provides for the depositing of records or documents until the day before an application is heard in chambers, the deposit must take place before midday on the last permissible day.

3. In cases where the Code provides for terms calculated in hours, secretariats note the time of the depositing of the documents relating to the case and the judicial decisions and adapt the office opening hours.

4. The possibility is ensured of depositing by electronic means acts which are due to expire until midnight of the last permissible day. The deposit is considered within the deadline if by midnight on the last day the receipt of acceptance is produced, where the deposit appears, also subsequently, to have been successful. For the effects in terms of defence and the setting of chambers and public hearings, the depositing of acts and documents that are expiring carried out after midday on the last permissible day is considered to have been made the next day.

Title II

Parties' and *ex officio* trial records

5. Compilation and maintenance of parties' and *ex officio* trial records. Subrogation of copies in place of missing originals and reconstitution of documents relating to the case

1. Each party, at the time of their first appearance in court, delivers their file containing the originals of the papers and documents they intend to use as well as the relative index.

2. The documents have to be deposited in a number of copies corresponding to the members of the college and the other parties. If the party's file and subsequent deposits do not contain copies of the documents referred to in this paragraph, the documents deposited are held in the secretariat and the court cannot consider them before the party has arranged for the number of copies requested.

3. Upon receipt of the deposit of an application, the secretariat starts to compile the *ex officio* file, which includes the index of the documents deposited, copies of the application and documents and, later, of the other documents relating to the case of the parties as well as, also in summary form, the minutes of the hearing and all the documents, and all the rulings of the court or its auxiliaries.

3-*bis*. In cases where provision has been made for the depositing of acts and documents in paper form, the secretariat compiles a paper file containing the identification data for the hearing; the paper file, which is considered an

integral part of the *ex officio* file, includes the index of the documents deposited, the acts legitimising the depositing on paper and the documents deposited. The updating of the index is maintained by the secretariat pursuant to paragraph 4.

4. The secretariat, after checking the correctness, including the payment of the due fees, of the acts and documents filed by each party, dates and adds them to the index of the file each time an act or document it is added to it.

5. In the case of loss, theft or destruction of the *ex officio* file or single documents relating to the case, the president of the court or the section, or, if the matter arises at the hearing, the college, shall inform the secretariat and the parties with the aim, respectively, of finding or depositing a certified copy, to take the place of the original. When an authenticated copy cannot be found, the president, by decree, fixes a session in chambers, which the parties are informed of, for the reconstruction of the documents relating to the case or the file. The college, with an order, ascertains the content of the missing act and determines if, and to what extent, it needs to be reconstituted; if it is not possible to determine the content of the act, the college orders its renewal, if necessary and possible, prescribing how this is to be done.

6. Withdrawal and transmission of parties' and *ex officio* files

1. The documents and acts brought before the Regional Administrative Court cannot be withdrawn by the parties before the trial comes to an end with a judgment.

2. In cases of appeal, the secretariat of the appeal court requests the transmission of the *ex officio* file from the secretariat of the court of first instance.

3. If what is being appealed is a judgment that is not final, or an interim order, paragraph 2 does not apply. However, the appeal court may, if it deems it necessary, request the transmission of the *ex officio* file, or order the party concerned to produce copies of particular documents.

4. The president of the section may authorise the replacement of any original documents and acts brought before court with certified true copies of the same, prepared by the secretariat upon a motivated request from the party concerned.

7. Issuance of copies

1. The secretariat issues a copy of the decisions and any other measure of the court at the request and expense of the parties.

Title III

Timetabling of applications - Hearings

8. Timetabling of applications

1. The establishment of the date of the hearing for dealing with applications is carried out according to the order of registration of requests for setting the hearing in the appropriate register, except in cases of priority setting provided by the Code.

2. The president may depart from the chronological order for reasons of urgency, also taking into account requests for earlier hearings, either for *ex officio* requirements of functionality, or for the connection of matters, as well as in all cases where the Council of State has invalidated the judgment or order and referred the case back to the court of first instance.

9. Calendar of hearings and formation of the colleges

1. The presidents of the judicial sections of the Council of State, the President of the Council of Administrative Justice for the Region of Sicily and the presidents of the Regional Administrative Courts or, where the court is divided into sections, the presidents of the branches and internal presidents, establish a calendar of hearings at the beginning of each year, indicating the judges called to take part and, at the beginning of each quarter, the composition of the colleges of the court, in accordance with the criteria established by the Presidential Council of Administrative Justice.

10. Togas and uniforms

1. Administrative judges, the staff of the secretariat and auxiliary personnel at public hearings wear the toga or uniform laid down by the Presidential Council of Administrative Justice.

2. Lawyers wear the toga at public hearings.

11. Direction of the hearing

1. The hearing is directed by the president of the college.

2. The secretariat records the minutes of the hearing.

12. Discipline of the hearing

1. Those present at the hearing must be silent, and cannot make signs of approval or disapproval or create disorder.

2. The president of the college, if they deem it necessary for the smooth conduct of the hearing, may request the intervention of the forces of law and order.

3. For the audiovisual recording of discussions regarding applications in open court, Article 147 of the implementation, coordination and transitional rules of the Criminal Procedure Code applies.

Title IV

Administrative trial using IT and criteria for drafting the pleadings

13. Electronic trial

1. The decree of the President of the Council of Ministers, after consultation with the Presidential Council of Administrative Justice and DigitPA, established, within the limitations of the human, instrumental and financial resources available under current legislation, the technical-operative rules for the testing, gradual application and updating of the electronic administrative trial, taking into account the need for flexibility and continuous adaptation of IT rules to the peculiarities of the administrative trial, its organisation and type of judicial decisions. In order to ensure the standard of the system and the unfailing reception of deposits, the General Secretariat of Administrative Justice may, by decree, limit the dimensions of individual files attached to the deposit made by PEC or upload. In exceptional cases, and if it is not possible to make multiple submissions of the same written defence or document, the president of the court or the Council of State, the president of the section if the appeal is already incardinated or the college if the matter arises at the hearing, may permit paper filing.

1-*bis*. In implementing a policy of the gradual introduction of the electronic trial, and until the date of 30 November 2016, the new provisions are being tested at all Regional Administrative Courts and the judicial sections of the Council of State. The identification of the specific methods of implementing the testing is left to the administrative courts in compliance with the provisions of the aforementioned decree.

1-*ter*. Except in cases where it is otherwise provided, all the formalities required by the Code and the implementing rules relating to applications in the first or second instance lodged from 1 January 2017 are carried out by electronic means, according to the provisions in the decree referred to in paragraph 1.

1-*quater*. Until 31 December 2017, deposits of appeals, defence pleas and documentation can be made by PEC or, in the cases provided for, by uploading them to the institutional website, also by addressees not enrolled in the register of lawyers. Communications from the secretariat can be made to the PEC of the addressee.

13-*bis*. Transitional measures for the uniform application of the electronic administrative trial

1. For a period of three years from 1 January 2017, if the college of first instance dealing with an application becomes aware that the point of law submitted to it concerning the interpretation and application of the rules relating to the electronic administrative trial has already resulted in significant disagreements in case law with respect to decisions of other Regional Administrative Courts or the Council of State, such as to have a material impact on the right to defence of one of the parties, with order issued on application by a party or *ex officio* and publicised at the hearing, it may submit to the President of the Council of State a request for the application to be examined by the plenary meeting, at the same time postponing the discussion of the judgment to the first hearing following the sixtieth day from the hearing in which the order is publicised. The president of the court or the branch provides within twenty days of the request; silence is equivalent to rejection. The President of the Council of State communicates the acceptance of the request within thirty days of receipt, and in this case the hearing before the court is suspended until the outcome of the decision of the plenary meeting. The failure to respond of the President of the Council of State within thirty days of the receipt of the request is equivalent to rejection. The plenary meeting is convened for a date no later than three months from the request, and decides only on the question of law relating to the electronic administrative trial.

13-*ter*. Criteria for conciseness and clarity in the parties' submissions

1. In order to allow the prompt delivery of a judgment in accordance with the principles of conciseness and clarity referred to in Article 3, paragraph 2,

of the Code, the parties draft the appeal and other pleas in accordance with the criteria and dimensions established by decree of the President of the Council of State, to be adopted by 31 December 2016, having heard the Presidential Council of Administrative Justice, the Bar Council and the Advocacy of the State, as well as the associations of administrative lawyers.

2. When setting the dimensions of the application and pleas, the effective value of the dispute, its technical nature and the value of the different interests substantially pursued by the parties are taken into account. The headers and other formal indications of the act are excluded from these limits.

3. The decree referred to in paragraph 1 establishes the cases which, for specific reasons, can be allowed to exceed these limits.

4. The Presidential Council of Administrative Justice, also through hearing the bodies and associations referred to in paragraph 1, carries out annual monitoring in order to assess the impact and level of implementation of the decree referred to in paragraph 1 and to formulate any proposals for amendments. The decree shall be updated at least every two years, by the same process referred to in paragraph 1.

5. The court is required to examine all the issues covered in the pages within the above limits. Failure to examine issues contained in the pages that go beyond the maximum does not constitute grounds for appeal.

Title V

Costs and expenses

14. Commission for the provision of legal aid

1. At the Council of State, the Council of Administrative Justice for the Region of Sicily and each Regional Administrative Court and its branches a commission is established for early and provisional access to legal aid, consisting of two administrative judges, appointed by the president, the senior of whom shall be the president of the commission, and a lawyer appointed by the president of the order of lawyers in the regional capital where the organ is based. For each member one or more alternates are designated. A secretary from the secretariat, appointed by the president, performs the duties of secretary. The president and members receive no honoraria or expenses.

15. Revenue from pecuniary sanctions

1. The revenue from pecuniary sanctions provided for by the Code is paid into the State budget, to be reassigned to the Ministry of Economy and Finance for the expenditure referred to in Article 1, paragraph 309, of Law no. 311 of 30 December 2004, as amended.

16. Extraordinary measures for the reduction of backlogs and to encourage productivity

1. By decree of the President of the Council of Ministers, in agreement with the Minister of Economy and Finance, on the proposal of the President of the Presidential Council of Administrative Justice by resolution of the same council, within the limits of the funds available in its budget and not actually used, extraordinary measures are adopted for the reduction of backlogs and to encourage productivity.

APPENDIX 3

Transitional rules

Title I

Settlement of applications pending for more than five years on the date of entry into force of the Code of Administrative Trial

1. New scheduling of a hearing

1. Within one hundred and eighty days from the date of entry into force of the Code, the parties submit a new request to schedule a hearing, signed by the party that issued the power of attorney referred to in Article 24 of the Code and by their defender, in relation to applications pending for over five years and for which the hearing has still not been set. Failing that, the application is declared expired by decree of the president.

2. If, however, within one hundred and eighty days from the communication of the decree, the applicant files a document signed by the party personally and their defender and notified to the other parties, stating that they still have an interest in the continuance of the case, the president withdraws the decree, ordering the reinstatement of the cause in the role.

3. If, in the time specified in paragraph 1, a notice of a hearing is communicated to the parties, the court will act in accordance with Article 82, paragraph 2, of the Code.

Title II

Additional transitional provisions

2. Continuance of the discipline previously in force

1. For the terms underway at the date of entry into force of the Code, the pre-existing rules will continue to apply.

3. Special provision for the appeal

1. The provision of Article 101, paragraph 2, of the Code does not apply to appeals filed before the entry into force of the Code.

APPENDIX 4

Coordination rules and repeals

1. Coordination rules and repeals on the election of the Italian members of the European Parliament

1. To Law no. 18 of 24 January 1979 the following changes are made:

a) Article 42 is replaced by the following:

"Article 42.

Judicial protection against acts of proclamation of the elected, for reasons concerning the electoral operations subsequent to the adoption of the writ of summons of the electoral meetings, is governed by the provisions laid down by the Code of Administrative Trial.";

b) Articles 43 and 46, second paragraph are hereby repealed.

2. Norms for coordination and repeals relating to local elections

1. The following changes are made to the consolidated text on the composition and election of the organs of municipal government, by Decree no. 570 of the President of the Republic of 16 May 1960:

a) Article 83 is replaced by the following:

"Article 83.

Protection in the field of operations for the election of municipal councillors, following the issue of the decree convening the election meetings, is governed by the provisions laid down by the Code of Administrative Trial.";

b) the following articles are repealed: 83/2; 83/3; 83/4; 83/5; 83/6, 83/7; 83/8; 83/9; 83/10; 83/11; 83/12;

c) In Article 84, first paragraph, the words: "the Section for electoral disputes, the Council of State" are deleted.

2. To Law no. 1257 of 5 August 1962, the following changes are made:

a) in Article 21, first paragraph, the words: "both in terms of eligibility and electoral operations" are replaced by the following: "in terms of eligibility";

b) Article 23 is replaced by the following:

"Article 23.

Judicial appeal in electoral matters. Protection in the field of operations for the election of municipal councillors, following the issue of the decree con-

vening the election meetings, is governed by the provisions laid down by the Code of Administrative Trial.";

c) in Article 24, under the heading, the words: "Regional Council, the Court of Appeal and the Council of State" are replaced by the following: "Regional Council and the Court of Appeal" and, in the first paragraph, the words: "Regional Council, the Court of Appeal of Turin and the Council of State" are replaced by the following: "Regional Council and the Court of Appeal of Turin";

d) Article 30 is modified as follows:

1) in the first paragraph the words "the Council of State" are replaced by the following: "the Court of Appeal of Turin", and the words: "judging with exclusive jurisdiction" are deleted;

2) in the second paragraph the words "the Council of State" are replaced by the following: "the Court of Appeal of Turin";

e) in Article 31, first paragraph, the words: "the Regional Council, the Court of Appeal of Turin and the Council of State" are replaced by the following: "the Regional Council and the Court of Appeal of Turin";

f) in Article 33, third paragraph, the words "to the Council of State and" are deleted.

3. In Law no. 1147 of 23 December 1966, the following changes are made:

a) in Article 3, first paragraph, the words "both before the ordinary judicial bodies, and before the organs of administrative jurisdiction", are replaced by the following: "before the ordinary judicial bodies";

b) in Article 7:

1) in paragraph 2 the words: "both in matters concerning the election, and" are deleted;

2) after the second paragraph the following is inserted: "Protection in the field of operations for the election of provincial councillors, following the issue of the decree convening the election meetings, is governed by the provisions laid down by the Code of Administrative Trial.";

c) Articles 2 and 8 are repealed.

4. In Law no. 108 of 17 February 1968, the following changes are made:

a) in Article 19 the first paragraph is replaced by the following: "For appeals concerning eligibility and forfeiture, the norms laid down under Articles 1, 3, 4 and 5 of Law no. 1147 of 23 December 1966 apply";

b) in Article 19, after the third paragraph the following is added: "Protection in the field of operations for the election of regional councillors, following

the issue of the decree convening the election meetings, is governed by the provisions laid down by the Code of Administrative Trial.".

5. In Articles 31, first paragraph, and 34, first paragraph, of the Decree of the President of the Republic no. 570 of 16 May 1960, and Article 17, first paragraph, 1) of Law no. 122 of 8 March 1951, and Article 11, first paragraph, no. 4) of Law no. 108 of 17 February 1968, the words: "the fifteenth day" are replaced by the following: "the eighth day.".

3. Further norms of coordination

1. Article 17, second paragraph, of Law no. 195 of 24 March 1958 is replaced by the following:

"Judicial protection before the administrative court is governed by the Code of Administrative Trial.".

2. The following changes are made to Law no. 241 of 7 August 1990:

a) Article 2, paragraph 8, is replaced by the following:

"8. Protection in terms of the silence of the administration is governed by the Code of Administrative Trial.";

b) In Article 15, paragraph 2, the words "paragraphs 2, 3 and 5" shall be replaced by "paragraphs 2 and 3";

c) Article 25, paragraph 5, is replaced by the following:

"5. Disputes relating to access to administrative documents are governed by the Code of Administrative Trial.".

3. Article 33, paragraph 1, of Law no. 287 of 10 October 1990 is replaced by the following: "1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

4. Article 10, paragraph 2-*quinquies*, of Decree-Law no. 8 of 15 January 1991, ratified with amendments by Law no. 82 of 15 March 1991, is replaced by the following:

"2-*quinquies*. Protection against the measures of the central committee with which are applied, modified or revoked special protective measures even if urgent or provisional in accordance with Article 13, paragraph 1, is governed by the Code of Administrative Trial.".

5. In Article 5 of Law no. 225 of 24 February 1992, after paragraph 6 the following is added:

"6-*bis*. Judicial protection before the administrative court against the ordi-

nances adopted in all emergency situations declared pursuant to paragraph 1 and against the consequential commissarial measures is governed by the Code of Administrative Trial.".

5-*bis*. In Article 145-*bis* of Legislative Decree no. 385 of 1 September 1993, the following changes are made:

a) paragraph 2 is replaced by the following: "2. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.";

b) paragraph 4 is replaced by the following: "4. A copy of the judgment of the Regional Administrative Court shall be forwarded, by the parties, to the body for publication, in summary form.".

6. Article 2, paragraph 25, of Law no. 481 of 14 November 1995, is replaced by the following:

"25. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

7. Article 13, paragraph 11, of the Consolidated Text governing immigration and norms on the status of foreigners, pursuant to Legislative Decree no. 286 of 25 July 1998, is replaced by the following:

"11. Against the Ministerial Decree referred to in paragraph 1, judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

8. Article 1, paragraph 26, of Law no. 249 of 31 July 1997, is replaced by the following: "26. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

9. In Legislative Decree no. 325 of 8 June 2001, Article 53 is replaced by the following:

"Article 53 (L). Trial provisions.

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial. (L).

2. This is without prejudice to the jurisdiction of the ordinary courts for disputes concerning the determination and payment of compensation as a result of the adoption of acts of expropriation or of an ablative nature. (L)".

10. In the Decree of the President of the Republic no. 327 of 8 June 2001, Article 53 is replaced by the following:

"Article 53 (L). Trial provisions.

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial. (L).

This is without prejudice to the jurisdiction of the ordinary courts for disputes concerning the determination and payment of compensation as a result of the adoption of acts of expropriation or of an ablative nature (L).".

11. In Article 13, paragraph 6-*bis* of the Consolidated Text of the laws and regulations governing expenditure and justice, by Decree of the President of the Republic no. 115 of 30 May 2002, the words "for the appeals provided for by Article 23-*bis*, paragraph 1, of Law no. 1034 of 6 December 1971, as well as other provisions that address the abovementioned article 23-*bis*, the contribution due is € 1,000; for the appeals" shall be replaced by the following: "for appeals covered by the short rite for certain matters provided for by Book IV, Title V, Chapter I of the Code of Administrative Trial, as well as other dispositions that refer to the rite mentioned, the contribution due is € 1,000; for the appeals", and at the end of the paragraph, the following sentence is added: "For appeals are intended the main one, the cross-claim and additional grounds that introduce new questions.".

12. Article 9 of Legislative Decree no. 259 of 1 August 2003, is replaced by the following: "Article 9. Applications against the Ministry and Authority

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

13. In Article 3, paragraph 1 of Decree-Law no. 220 of 19 August 2003, converted with amendments by Law no. 280 of 17 October 2003, the words: "is devolved to the exclusive jurisdiction of the administrative court" are replaced by the following: "is governed by the Code of Administrative Trial.".

14. Article 81 of Legislative Decree no. 396 of 30 December 2003, is replaced by the following: "Article 81. Judicial protection

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial. (L)".

15. Article 81 of the Decree of the President of the Republic no. 398 of 30 December 2003, is replaced by the following: "Article 81 (L) Judicial protection.

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial. (L).".

16. Article 142, paragraph 5, of Legislative Decree no. 30 of 10 February 2005 is replaced by the following:

"5. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

17. Article 3, paragraph 1-*ter* of Legislative Decree no. 82 of 7 March 2005, is replaced by:

"1-*ter*. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

17-*bis*. Article 140, paragraph 11 of Legislative Decree no. 206 of 6 September 2005, is replaced by:

"11. This is without prejudice to the exclusive jurisdiction of the administrative courts in matters relating to public services pursuant to Article 133, paragraph 1, letter c) of the Code of Administrative Trial.".

18. Article 326, paragraph 7, of Legislative Decree no. 209 of 7 September 2005, is replaced by the following:

"7. Judicial protection before the administrative courts is governed by the Code of Administrative Trial. Appeals are also notified to ISVAP, which provides defence with their lawyers.".

19. In Legislative Decree no. 163 of 12 April 2006, the following changes are made:

a) in Article 11, paragraph 10-*ter*, the words "Article 245, paragraph 2-*quater*, first sentence" are replaced by the following: "Article 14, paragraph 3, of the Code of Administrative Trial";

b) Article 243-*bis*, paragraph 6 is replaced by:

"6. The total or partial refusal of self-defence, whether express or implied, may be appealed only together with the act to which it refers, or, if the latter has already been challenged, with additional grounds.";

c) Article 244 is replaced by the following:

"Article 244. Jurisdiction.

1. The Code of Administrative Trial identifies the disputes devolved to the exclusive jurisdiction of the administrative courts in respect of public contracts.";

d) Article 245 is replaced by the following:

"Article 245. Instruments of protection.

1. Judicial protection before the administrative courts is governed by the Code of Administrative Trial.";

e) Article 245-*bis* is replaced by the following:

"Article 245-*bis*. Ineffectiveness of the contract in cases of serious violations.

1. The ineffectiveness of the contract in cases of serious violations is governed by the Code of Administrative Trial";

f) Article 245-*ter* is replaced by the following:

"Article 245-*ter*. Ineffectiveness of contracts in other cases.

1. The ineffectiveness of the contract in cases other than those covered by Article 245-*bis* is governed by the Code of Administrative Trial";

g) Article 245-*quater* is replaced by the following:

"Article 245-*quater*. Alternative sanctions.

1. Alternative sanctions applied by the administrative judge alternatively or cumulatively are governed by the Code of Administrative Trial";

h) Article 245-*quinquies* is replaced by the following:

"Article 245-*quinquies*. Protection in specific and equivalent form.

1. Protection in specific and equivalent form is governed by the Code of Administrative Trial";

i) Article 246 is replaced by the following:

"Article 246. Further procedural rules for disputes relating to manufacturing infrastructure and plants.

1. Judicial protection before the administrative courts in disputes relating to manufacturing infrastructure and plants is governed by the Code of Administrative Trial".

19-*bis*. In Legislative Decree no. 198 of 11 April 2006, the following changes are made:

a) in Article 37, paragraph 4, second sentence, the words "The court" are replaced by the following: "The tribunal in the role of the labour court";

b) in Article 37, paragraph 4, the following words are added at the end: "Judicial protection before the administrative courts is governed by Article 119 of the Code of Administrative Trial";

c) in Article 37, paragraph 5, the words "judgment referred to in paragraph 3" are replaced by the following: "judgment referred to in paragraph 3 and paragraph 4";

d) in Article 38, paragraph 1, the words "or the competent Regional Administrative Court" are deleted;

e) in Article 38, paragraph 5 is replaced by the following: "5. Judicial protection before the administrative courts is governed by Article 119 of the Code of Administrative Trial.".

20. Article 22, paragraph 1 of Legislative Decree no. 30 of 6 February 2007 is replaced by the following: "1. Against the measures of expulsion for reasons

of security of the State or for reasons of public order referred to in Article 20, paragraph 1, judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

21. Article 14, paragraph 1 of Legislative Decree no. 109 of 22 June 2007 is replaced by the following:

"1. Against the measures provided for in this decree, judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

22. Article 22 of Law no. 124 of 3 August 2007, is replaced by the following:

"Article 22. Judicial protection

1. Judicial protection before the administrative courts, relating to employment relationships, is governed by the Code of Administrative Trial.".

23. In Article 54, paragraph 2 of Decree-Law no. 112 of 25 June 2008, converted with amendments by Law no. 133 of 6 August 2008, the words: "a request under the second paragraph of Article 51 of Royal Decree no. 642 of 17 August 1907" are replaced by the following: "the request for a hearing under Article 71, paragraph 2, of the Code of Administrative Trial, nor with regard to the period prior to its presentation.".

24. Article 9, paragraph 1 of Decree-Law no. 4 of 4 February 2010, converted with amendments by Law no. 50 of 31 March 2010, is replaced by the following:

"1. Against the measures provided for in this decree, judicial protection before the administrative courts is governed by the Code of Administrative Trial.".

25. In Legislative Decree no. 66 of 15 March 2010, the following changes are made:

a) "Article 441 is replaced by: "Article 441. Judicial protection.

1. Cognisance of the disputes concerning the requirements referred to in this chapter is devolved to the ordinary courts in respect of the award of benefits; protection before the administrative courts is governed by the Code of Administrative Trial";

b) Article 1940, paragraph 2 is replaced by the following:

"2. Against the measures with regard to military service and against those deciding administrative hierarchical appeals referred to in paragraph 1, judicial protection before the administrative courts it is governed by the Code of Administrative Trial.".

25-*bis*. Paragraph 26-*bis* of Decree Law no. 70 of 13 May 2011, converted with amendments by Law no. 106 of 12 July 2011, is replaced by the following:

"26-*bis*. Protection against the provisions of the Agency is governed by the Code of Administrative Trial.".

25-*ter*. Article 114, paragraph 1 of Legislative Decree no. 159 of 6 September 2011 is replaced by the following:

"1. For all disputes attributed to the cognisance of the administrative court deriving from the application of this Title, jurisdiction is determined in accordance with Article 135, paragraph 1, letter p), of the Code of Administrative Trial.".

25-*quater*. In Article 3, paragraph 2, of Legislative Decree no. 149 of 6 September 2011, the words "The judgment on its appeal is devolved to the exclusive jurisdiction of the administrative court" are replaced by the following: "To related disputes the provisions of Article 133 of the Code of Administrative Trial apply.".

4. Further repeals

1. From the entry into force of this Legislative Decree the following legislation is or remains repealed:

1) Royal Decree no. 638 of 17 August 1907;

2) Royal Decree no. 642 of 17 August 1907;

3) Royal Decree no. 2840 of 30 December 1923;

4) Royal Decree no. 1054 of 26 June 1924: Articles 1 to 4 inclusive; from 6 to 10 inclusive; from 26 to 32 inclusive; 33, second paragraph; from 34 to 47; from 49 to 56 inclusive;

5) Royal Decree no. 1058 of 26 June 1924;

6) Royal Decree no. 148 of 8 January 1931: Article 58, second paragraph;

6-*bis*) Royal Decree no. 444 of 21 April 1942: Articles 71 to 74;

7) Legislative Decree no. 642 of 5 May 1948;

8) Law no. 1018 of 21 December 1950: Articles 5; 6; 9; 10;

9) Law no. 1185 of 21 November 1967: Article 11;

10) Law no. 1034 of 6 December 1971: Articles 2 to 8 inclusive; 10; 19 to 39 inclusive; 40, first paragraph; from 42 to 52 inclusive;

11) Decree of the President of the Republic no. 214 of 21 April 1973: Articles 3; 4; 5; 12; 13; 23 to 27 inclusive; 30; 34; 37 to 40 inclusive;

11-*bis*) Law no. 166 of 27 May 1975: Article 8;

11-*ter*) Law no. 227 of 7 June 1975: Article 9;

11-*quater*) Law no. 546 of 8 August 1977: Article 4, paragraph 11;

12) Law no. 75 of 20 March 1980: Article 6;

13) Law no. 186 of 27 April 1982: Article 1, fourth paragraph, from the words "the judicial sections" to the end; 5; 55;

14) Law no. 241 of 7 August 1990: Articles 2-*bis*, paragraph 2; 11, paragraph 5; 19, paragraph 5; 20, paragraph 5-*bis*; 21-*quinquies*, paragraph 1, last sentence; 21-*septies*, paragraph 2; 25-*bis*, paragraphs 5 and 6;

15) Decree-Law no. 8 of 15 January 1991, ratified with amendments by Law no. 82 of 15 March 1991: Article 10, paragraphs 2-*sexies*, 2-*septies*, 2-*octies*;

16) Law no. 266 of 11 August 1991: Article 6, paragraph 5;

17) Legislative Decree no. 385 of 1 September 1993: [*Article 145, paragraphs 4 to 8*]; Article 145-*bis*, paragraph 3;

18) Law no. 127 of 15 May 1997: Article 17, paragraph 26, second sentence;

19) Legislative Decree no. 58 of 24 February 1998: Articles 187-*septies*, paragraphs 4 to 8; 195, paragraphs 4 to 8;

20) Legislative Decree no. 80 of 31 March 1998: Articles 33, 34 and 35;

21) Law no. 133 of 4 May 1998: Article 4, paragraph 3;

22) Law no. 28 of 22 February 2000: Articles 10, paragraph 10; 11-*quinquies*, paragraph 4;

23) Law no. 205 of 21 July 2000: Articles 1; 2; 3, paragraphs 1; 2; 3; 4; 6, paragraph 2; 7; 8; 11; 12; 16;

24) Law no. 383 of 7 December 2000: Article 10, paragraph 2;

25) Legislative Decree no. 378 of 6 June 2001: Article 45, paragraph 2;

26) Decree of the President of the Republic no. 380 of 6 June 2001: Article 45, paragraph 2;

27) Legislative Decree no. 188 of 8 July 2003: Article 37, paragraph 7;

28) Legislative Decree no. 259 of 1 August 2003: Article 92, paragraph 9;

29) Decree-Law no. 220 of 19 August 2003, converted with amendments by Law no. 280 of 17 October 2003: Article 3, paragraphs 2, 3 and 4;

30) Law no. 311 of 30 December 2004: Article 1, paragraph 552;

31) Decree-Law no. 63 of 26 April 2005, converted with amendments by Law no. 109 of 25 June 2005: Article 2-*sexies*, paragraph 1;

32) Decree-Law no. 144 of 27 July 2005, converted with amendments by Law no. 155 of 31 July 2005: Article 3, paragraph 4-*bis*;

33) Legislative Decree no. 206 of 6 September 2005: Article 27, paragraph 13, first sentence;

34) Decree-Law no. 245 of 30 November 2005, converted with amendments by Law no. 21 of 27 January 2006: Article 3, paragraph 2-*bis*, 2-*ter* and 2-*quater*;

35) Law no. 262 of 28 December 2005: Article 24, paragraphs 5 and 6;

36) Legislative Decree no. 152 of 3 April 2006: Article 310, paragraph 2, limited to the words: "with exclusive jurisdiction"; 316, paragraph 1, limited to the words, "with exclusive jurisdiction";

36-*bis*) Legislative Decree no. 163 of 12 April 2006: Article 246-*bis*;

37) Law no. 296 of 27 December 2006; Article 1, paragraph 1308;

38) Legislative Decree no. 145 of 2 August 2007: Article 8, paragraph 13, first sentence;

39) Decree-Law no. 90 of 23 May 2008, converted with amendments by Law no. 123 of 14 July 2008: Article 4;

40) Decree-Law no. 112 of 25 June 2008, converted with amendments by Law no. 133 of 6 August 2008: Article 54, paragraph 3, letters c) and d);

41) Decree-Law no. 185 of 29 November 2008, converted with amendments by Law no. 2 of 28 January 2009: Article 20, paragraph 8, subject to the provisions of Article 15, paragraph 4, of Legislative Decree no. 53 of 20 March 2010;

42) Law no. 69 of 18 June 2009: Article 46, paragraph 24, limited to the words "administrative and";

43) Law no. 99 of 23 July 2009: Articles 41; 53, paragraph 2.

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