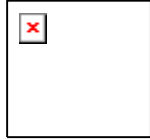


QUALIFIED LAW no. 55 of 25 April 2003



# REPUBLIC OF SAN MARINO

**Organisation, incompatibilities, functioning, forms of appeals and  
proceedings, effects of the decisions of the Guarantors' Panel on the  
constitutionality of rules**

**We the Captains Regent**

**of the Most Serene Republic of San Marino**

*Hereby promulgate and order the publication of the following Law, approved by the  
Great and General Council during its sitting of 25 April 2003.*

## **Title I**

### **Establishment of the Guarantors' Panel**

#### **Art.1**

1. The Guarantors' Panel shall perform the functions referred to in Article 16 of Law no. 59 of 8 July 1974, as amended by Constitutional Law no. 36 of 26 February 2002, as well as the functions envisaged by Article 9 of the latter Constitutional Law.

#### **Art.2**

*(Election and appointment)*

1. The full members and alternates of the Guarantors' Panel shall be elected by two thirds majority of the Great and General Council. The Captains Regent shall put the names of the candidates designated by the Bureau to the vote of the Great and General Council.
2. At least three months before the expiry of the mandate of the Panel's members, the Captains Regent shall convene the Bureau of the Great and General Council with a view to proposing the candidates.
3. The candidates may be either San Marino or foreign citizens and shall be initially appointed for a 4-year mandate.
4. After the first 4-year mandate, at least one third of the components of the Panel shall be renewed every two years, unless its members voluntarily resign or are removed from office, choosing by lot two of its members, a full member and an alternate, among those who have already served at least the first 4-year mandate. The choice by lot shall take place in the presence of the Captains Regent, Heads of Parliamentary Groups, Parliament Representatives and members of the Guarantors' Panel, during a meeting of the Bureau of the Great and General Council.
5. The full members and alternates who are not chosen by lot shall not hold the position for more than two consecutive mandates. Subsequently, they may be re-elected only after four years from the expiry of the second mandate. The alternates may be elected as full members and vice versa. In this case, the respective periods shall be aggregated.
6. Both full members and alternates shall be appointed by means of a Regency Decree not subject to ratification.
7. Before taking office, the full members and alternates of the Guarantors' Panel shall take an oath before the Captains Regent.

### **Art.3**

#### *(President)*

1. The Guarantors' Panel shall elect, by a majority of its full members and alternates, the President, chosen from among the full members, on a rotational basis and for a term of two years. In the event of a tie, the most senior and, in the alternative, the oldest shall be designated.
2. The President shall immediately designate the full member who shall replace him in the event of an impediment.

## **Art.4**

### *(Incompatibilities)*

1. The members of the Guarantors' Panel, whether full members of alternates, shall not hold posts or in any case carry out activities within political or trade union associations, stand for general or administrative elections, carry out commercial or industrial activities, hold the position of company director or auditor, both in the territory of the Republic and abroad.
2. The members of the Panel, whether full members or alternates, shall not exercise a professional activity, take up other positions or public or private employments in the territory of the Republic.

## **Art.5**

### *(Resignation and disqualification)*

1. Resignations shall be placed in the hands of the President and of the Captains Regent. Resignations shall be immediately effective.
2. The members of the Panel, whether full members or alternates, shall be disqualified from office in case of unjustified absence for three consecutive sittings or if the incompatibilities referred to in Article 4 of this Law arise.

## **Art.6**

### *(Abstention and objection)*

1. The causes for abstention and objection provided for in Article 17 of Law no. 83 of 28 October 1992 shall apply to the members of the Guarantors' Panel.
2. The decision shall be adopted by the Guarantors' Panel in the manner and within the time limits envisaged in Chapter II of Title VII of this Law.

## **Title II**

### **Functioning of the Guarantors' Panel**

## **Art.7**

*(Hearings)*

1. The hearings of the Guarantors' Panel referred to in the subsequent Titles III, IV, V and VI shall always be public; in the other cases, they shall be public unless otherwise decided by the President for justified reasons of national security, public order or public morality. The Registrar shall draw up the minutes of the hearings, which shall be signed by the President and the Registrar.

**Art.8**

*(Decisions of the Guarantors' Panel)*

1. The hearings of the Guarantors' Panel shall be validly convened with the presence of three members. The members of the Panel shall be obliged to attend the hearings except in case of legitimate impediment notified in writing to the President with the supporting documents, ordinarily at least five days before the hearing.

2. The decisions shall be adopted in closed session by majority.

3. The Panel may adopt decisions by means of a judgement or order. The measures taken by the President shall be in the form of decrees.

4. The judgements shall be pronounced in the name of the Most Serene Republic of San Marino and shall contain, in addition to factual and legal grounds, also the decision, the date of the decision and the signatures of the Panel's members. The judgements referred to in Title VII of this Law shall be signed only by the deciding member of the Panel.

5. Orders shall be motivated.

6. Any decision of the Guarantors' Panel shall be filed with the Registry. Anyone shall be entitled to examine it and obtain a copy thereof. The existing provisions on publication shall apply to the decisions taken in the exercise of the functions envisaged in Title VII of this Law.

**Art.9**

*(Representation and defence)*

1. For any appeal and for participation in the proceedings before the Guarantors' Panel, the parties shall be represented and assisted by lawyers registered in the Professional Register of Lawyers and Notaries of the Republic.

2. Non-San Marino lawyers shall be required to have an address for service at the office of lawyers registered in the Professional Register of Lawyers and Notaries of the Republic of San Marino.
3. The State shall have the right to join the proceedings referred to in Title III of this Law.
4. The State and its bodies shall normally be assisted by the State Lawyers' Office.

#### **Art.10**

*(Publication of acts)*

1. Judgements and orders issued in the context of the functions referred to in Titles III, IV, V and VI shall be published under Article 30 of Law no. 21 of 11 March 1981 and subsequent amendments and integrations and shall be included in the Official Bulletin.

### **Title III**

#### **Judicial review of constitutionality**

#### **Art.11**

*(Judicial review of constitutionality)*

1. The review of constitutionality referred to in Article 16 of the Declaration on the Citizens' Rights may be carried out through direct action or incidental action in the context of proceedings pending before judicial bodies.

#### **Art.12**

*(Direct review)*

1. Applications for direct review of constitutionality may be lodged by at least twenty Parliament members, the Congress of State, five Township Councils, a number of voting citizens representing at least 1.5% of voters resulting from the last and definitive annual review of electoral lists.
2. The appeal shall be filed with the Registry of the Guarantors' Panel, which shall transmit a copy thereof to the Captains Regent. Appeals against laws or acts having the force of law shall be lodged within the mandatory time limit of forty-five days from the

official publication of the law or of the act having the force of law subject to publication. In order to be admissible, the appeal shall clearly indicate the provisions of the law or having the force of law whose legitimacy is doubtful or controversial, as well as the allegedly infringed provisions and principles of Law n. 59 of 8 July 1974, as amended by subsequent constitutional laws.

3. In case of applications for review lodged by citizens, the appeal, signed by the promoters, shall contain the name of their representative, on whom all communications and notices addressed to the applicants shall be effectively serviced. In order to be admissible, the sheets containing the signatures, duly authenticated, of the percentage of voters established by law shall be attached to the appeal. In order to be declared authentic, the signatures of the voting citizens shall be on specific forms, to be filed with the Vital Statistics Registrar and the Single Court Registrar and signed also by the representative indicated by the promoters, who may also indicate notaries public. Immediately after an appeal has been lodged, the Registry of the Guarantors' Panel shall request to the Vital Statistics Office - Population and Electoral Services the certificates attesting that signatories are included in the electoral lists.

4. In case of actions brought by the Township Councils, the relevant decision of each Council shall be necessary. The appeal shall be signed by two delegates for each applicant Township Council, representing the Promoting Committee. In order to be declared admissible, the appeal shall be accompanied by the original abstracts of the minutes of the Council's sessions. To be valid, the communications and notices shall be notified to the Head of the Township Council.

5. Once he has received the appeal, the Panel's President shall order its official publication at the Government Building and in the Official Bulletin.

6. Within the following ten days, the President shall fix the date for the hearing and shall notify the applicants thereof.

### **Art.13**

#### *(Incidental review)*

1. Applications for review of constitutionality may be lodged through incidental action in the context of proceedings pending before the jurisdictional bodies of the Republic by the parties or the Procuratore del Fisco (Prosecuting Magistrate) through an ad-hoc written application, or ex-officio by the Judge through a reasoned order.

2. In order to be admissible, the application shall contain the indications referred to in Article 12, paragraph 2 of this Qualified Law.

3. If an issue of constitutional legitimacy is raised and decided through direct action, the same issue may not be lodged again through incidental action.
4. The application shall be placed on records of the judicial proceedings and shall be notified to all interested parties by the applicant. The Judge shall grant the parties and the Procuratore del Fisco, if involved in the case, twenty days to submit their observations and arguments. After such period, the Judge shall reject, by means of an order, manifestly unfounded or simply delaying appeals.
5. The ruling of inadmissibility of the application by the referring judge shall not prejudice a new submission of the application at other instances or in different proceedings.
6. The ruling of admissibility of the application shall be immediately notified to the parties and to the Procuratore del Fisco and transmitted, together with the case file, to the Guarantors' Panel. The proceedings shall be suspended from the date of the ruling till the day on which the acts are returned.
7. Once he has received all acts, the President of the Guarantors' Panel shall order the notification of the ruling of admissibility to the Captains Regent and its publication at the Government Building and in the Official Bulletin. Within twenty days from the official publication, the parties and the Procuratore del Fisco may examine the acts lodged and submit observations and arguments.
8. Within the following ten days, the President shall fix the date of the hearing and shall notify the parties and the Procuratore del Fisco of the ruling.

#### **Art.14**

##### *(Panel's decisions)*

1. The hearing shall be oral and take place according to the principle of adversarial proceedings.
2. The Guarantors' Panel shall decide in closed session within the mandatory time limit of two months.
3. In case of reviews through direct action, the Guarantors' Panel shall establish by means of an order whether a constitutional legitimacy issue is manifestly unfounded.
4. Admission and rejection decisions shall be adopted by means of a judgement. If the application is admitted, the Guarantors' Panel shall declare the challenged provisions illegitimate.
5. The decisions shall be immediately notified by the Registry of the Guarantors' Panel to the applicants and to the interested parties and shall be transmitted, in certified copy, to the Captains Regent, who shall immediately inform the Great and General

Council thereof. Within five days from their lodging, the decisions on applications through incidental action shall be transmitted, to the judicial authority before which the proceedings are pending, together with all relevant acts.

## **Title IV**

### **Admissibility of Referenda**

#### **Art.15**

1. The functions concerning the admissibility of referenda performed by the Panel of Judges referred to in Law no. 101 of 28 November 1994 shall be assigned to the Guarantors' Panel.
2. The Captains Regent shall transmit the communication of the deposit referred to in Art. 9 of Law no. 101 of 28 November 1994 to the Guarantors' Panel. The Panel's President shall fix, by means of an ad-hoc measure, with at least 10 days' notice, the hearing which shall take place within twenty days from the deposit. The provisions contained in Law no. 101 of 28 November 1994 shall apply to the admissibility procedure.

## **Title V**

### **Conflicts among Constitutional Bodies**

#### **Art.16**

1. The Guarantors' Panel shall decide on conflicts of powers among the constitutional bodies with regard to the enforcement or the interpretation of constitutional rules by identifying the body responsible for the relevant functions.
2. The appeal shall be lodged by the President of the collegial constitutional bodies following an ad-hoc decision. With regard to the bodies of the judiciary, the appeal shall be lodged by the magistrate whose activity results in or is affected by the conflict.
3. Within five days, the Panel shall decide by means of an order on the admissibility of the appeal. In case of admissibility, it shall notify its decision to the constitutional bodies concerned, by granting them a twenty-day time limit to file observations and arguments.
4. The Panel shall decide with absolute priority, but no later than fifteen days.



5. If the appeal is admitted, the Guarantors' Panel, by means of a judgement, shall establish the attribution of powers and, if it is the case, shall annul any acts adopted in contrast to its judgement.
6. The decision shall be notified by the Registry of the Guarantors' Panel to the bodies concerned and transmitted to the Captains Regent.

## **Title VI**

### **Regency Syndicate**

#### **Art.17**

1. At the end of their mandate, the Captains Regent shall be accountable to the Guarantors' Panel under the Heading XIX of Book I of *Leges Statutae*.
2. The Syndicate shall concern exclusively the assessment and evaluation of any institutional liability, without prejudice to any criminal and civil liability to be established by the ordinary jurisdictions.
3. Within fifteen days after the conclusion of their mandate, every citizen registered in the electoral lists may lodge complaints with the Registry of the Guarantors' Panel in relation to what the Captains Regent have "done and not done" during their assignment. The appeal shall be drawn up in writing; it shall be addressed to the Court, contain a clear and detailed statement of the facts, the supporting evidence deemed necessary by the applicant, as well as the reasons in law at the basis of the appeal. The applicant shall complete the appeal with a clear and detailed indication of the requested decision.
4. Once the deadline above has expired, the Guarantors' Panel shall meet within five days to verify the admissibility of complaints. In case of admissibility, it shall assign a period of twenty days to allow the deposit of observations and arguments, as well as an indication of evidence. The measure shall be notified by the Registry.
5. Over the next ten days, the Panel's President shall fix the hearing for the taking of evidence and the discussion, which will take place in the next ten days. The measure shall be notified to all parties concerned.
6. Any witnesses and evidence deemed necessary may be presented at the hearing. Having gathered the evidence, the Panel's President shall open the discussion, after which the Panel shall decide in closed session. The Guarantors' Panel may postpone the discussion at the request of the parties, to respect the right of defence, if evidentiary findings require a more in depth analysis and shall fix a special hearing.
7. The Guarantors' Panel shall make a decision by means of a judgement.
8. The person subject to syndicate shall have the right to intervene personally in the hearings.

9. With regard to reckless complaints, except when lack of evidence is declared, the Panel shall send all acts to the Court for the matters falling within its competence.

10. Article 10 of this Law shall apply to the publication of the acts.

## **Title VII**

### **Jurisdictional functions**

**under Article 9 of Law no. 36 of 26 February 2002;**

## **CHAPTER I**

### **Conflicts of jurisdiction**

#### **Art.18**

*(Conflicts of jurisdiction)*

1. A member of the Guarantors' Panel shall decide on conflicts of jurisdiction referred to in Article 37 of Law no. 68 of 28 June 1989, including pleas for lack of jurisdiction of San Marino judicial authority in civil proceedings referred to in Article 2 no.3, first part of Law no. 13 of 5 June 1923.

#### **Art.19**

*(Conflict between ordinary and administrative jurisdiction)*

1. The conflict of jurisdiction between the ordinary and the administrative judge may be invoked at the request of one of the parties or ex officio, in accordance with the following provisions.

2. The Judge may establish at all times, even with the final judgement, the lack of jurisdiction.

3. The parties in the first instance administrative proceedings shall lodge a complaint for lack of jurisdiction within the end of the hearing for oral arguments fixed for the first time.

4. In ordinary civil proceedings the issue shall be raised by the parties within the statutory deadline fixed to respond and contest, whereas in summary documentary proceedings within the time limit for opposition.

5. Lack of jurisdiction shall not be waived in the absence of a complaint by the parties or if not established by the judge, since it may also be invoked in appeal. However, should the defendant, intervenor or respondent fail to promptly

raise the issue within the time limits set out, said party shall reimburse the legal costs incurred by the plaintiff or appellant, as a result of lack of action.

6. Whenever the issue raised by the parties is not considered manifestly unfounded or is raised *ex officio*, the judge shall assign to the parties a 30-day time limit to lodge any observations. Upon expiry of this time limit, the case file shall be transmitted to the Registry of the Guarantors' Panel.

7. Once he has received all acts, the Panel's President shall immediately assign the appeal to a member of the Panel, who shall decide within 30 days.

8. The judgement shall be filed with the Registry, which shall notify it to the parties and subsequently transmit it to the judicial authority before which the proceedings are pending, together with the case file.

9. The proceedings shall be suspended from the day of the admissibility order until the day on which the acts are returned.

## **Art.20**

### *(Plea for lack of jurisdiction in civil proceedings)*

1. Pleas for lack of international jurisdiction, referred to in Heading II of Book II of *Leges Statutae Reipublicae Sancti Marini*, shall be decided by a member of the Guarantors' Panel.

2. The judge before whom the proceedings are pending, in which the plea for lack of international jurisdiction has been raised, shall set a time limit of four days, during which all parties may submit evidence, observations and arguments. Upon expiry of this time limit, the case file shall be transmitted to the Guarantors' Panel.

3. Once he has received all acts, the Panel's President shall immediately assign the appeal to a member of the Panel, designated in accordance with the criteria established by the regulations in Article 38 of this Law, who, within twenty days, shall fix the hearing for the discussion on the plea.

4. The designated member, having gathered the evidence submitted by the parties and heard the concluding allegations, shall keep the file case to make his decision, which shall be lodged within thirty days. The deciding member may postpone the discussion at the request of the parties, so as to guarantee the adversarial principle, if evidentiary findings require a more in depth analysis and shall fix a special hearing.

5. The judgement shall be deposited with the Registry, which after filing, shall notify it to the parties and subsequently transmit it to the Court's Registry, together with the case file.

6. The proceedings shall be suspended from the day of the transmission of the acts to the Guarantors' Panel until the day of their return.

## **CHAPTER II**

### **Abstention and Objection of Magistrates**

#### **Art.21**

*(Competence for taking abstention and objection decisions)*

1. A member of the Guarantors' Panel shall decide on the abstention and objection of judges and of the Procuratore del Fisco pursuant to Article 17 of Law no. 83 of 28 October 1992 (Judicial System).

#### **Art.22**

*(Mandatory abstention)*

1. The judge or the Procuratore del Fisco, facing one of the situations specified in Article 17 of Law no. 83 of 28 October 1992 (Judicial System) and for which mandatory abstention is envisaged, shall inform and require the Guarantors' Panel to be relieved from handling and deciding the case for which incompatibility exists.

2. Once notified to the parties, the application shall be transmitted to the Registry of the Guarantors' Panel together with the acts of the proceedings. The application shall mention and contain the relevant evidence.

3. The Panel's President shall immediately assign the appeal to a member of the Panel, who shall decide within 30 days.

4. The judgement shall be filed with the Registry, which shall notify it to the parties and to the magistrate and transmit it to the Court's Registry, together with the case file.

5. The preceding provisions shall also apply in case of mandatory abstention of a member of the Guarantors' Panel.

## **Art.23**

### *(Objection)*

1. The Judges and the Procuratore del Fisco may be objected to by the parties in the cases specified in Article 17 of Law no. 83 of 28 October 1992 (Judicial System).
2. The application for objection shall be filed in the proceedings and shall state in detail the grounds for the objection provided for by law and the supporting evidence.
3. The Judge, upon receipt of the application, shall inform the Head Magistrate thereof and transmit it immediately to the Guarantors' Panel, together with the case file.
4. The Panel's President shall immediately assign the appeal to a member of the Panel who, within the following three days, shall assign to the parties and to the judge objected to a ten-day time limit for the filing of observations, arguments and documentary evidence. Both observations and evidence shall be available to the parties and the judge, who shall be entitled to take copies thereof. If witness evidence is required, the designated member of the Panel shall fix an ad-hoc hearing, where this shall be taken according to the principle of adversarial proceedings. Upon expiry of the time limit above and once evidence is collected, the concluding observations shall be filed within the following ten days. After this deadline, the case shall be ready for decision, which shall be deposited within thirty days.
5. The judgement shall be filed with the Registry, which shall notify it to the parties and to the magistrate objected to, and transmit it to the Court's Registry, together with the case file.
6. If, after the deposit of an application for objection, urgent and unpostponable procedural acts are necessary, or when the parties may suffer from an unjust and irreparable damage pending the objection proceedings, the designated member of the Panel, upon request by a party, may order the transmission of copies of the proceedings documents to the Head Magistrate, who shall appoint, under the rules on the distribution of judicial work and respecting the principle of professional competence, the magistrate responsible for taking such measures in replacement of the judge objected to.
7. If, following the deposit of the application for objection, the magistrate declares his intention to abstain, the provisions on abstention shall apply and the objection proceedings shall be terminated.
8. The preceding provisions shall also apply in case of objection to a member of the Guarantors' Panel.

## **CHAPTER III**

### **Appeals in criminal proceedings concerning the legitimacy of precautionary measures or the enforcement of the sentence**

#### **Art.24**

*(Legitimacy of precautionary measures and enforcement of the sentence in criminal proceedings)*

1. A member of the Guarantors' Panel shall be responsible for deciding, in the last instance, on appeals in criminal proceedings concerning the legitimacy of precautionary measures involving people and property adopted during the proceedings or the enforcement of sentences.
2. The appeal shall not suspend the enforcement of the measure challenged. However, upon a specific and reasoned application, the suspension of the sentence may be ordered after having heard all the parties involved, when its enforcement may entail an unfair and irreparable damage to the party. Such suspension may be subject to an appropriate bail.

#### **Art. 25**

*(Proceedings and Decision)*

1. The appeal shall be filed with the Criminal Registry by the party involved and by the Procuratore del Fisco, within the mandatory time limit of thirty days from the notification of the measure.
2. After having notified the appeal to all parties and the Procuratore del Fisco, the Law Commissioner shall transmit the file to the Guarantors' Panel.
3. The Panel's President shall immediately assign the appeal to a member of the Panel, who shall grant to the parties and the Procuratore del Fisco a ten-day time limit for the filing of any observations and arguments.
4. Upon expiry of the time limit above, the designated member of the Panel shall fix the hearing for the debate, which shall take place no later than the following twenty days.

5. The decision shall be filed within ten days from the hearing fixed for the debate. Such decision shall be notified by the Registry to the parties and to the Procuratore del Fisco, and shall be transmitted to the Criminal Registry together with the case file.

## **CHAPTER IV**

### **Third instance administrative and civil proceedings**

#### **Art.26**

*(Appeals in case of divergence between first and second instance in civil and administrative judgements)*

1. A member of the Guarantors' Panel shall be responsible for deciding third instance appeals in case of divergence between first and second instance judgements in civil and administrative proceedings.
2. The appeal shall be admitted if the second instance judgement has modified, in whole or in part, that of first instance. The member of the Guarantors' Panel shall choose which of the two judgements, or which of the diverging parts of the judgements shall become *res iudicata*.

#### **Art.27**

*(Third instance administrative judgements)*

1. In case of divergence between first and second instance judgements, or between parts thereof, the Administrative Judge of Appeal shall order the Court Registry to transmit the entire file to the Guarantors' Panel, by depositing it with its Registry.
2. The Panel's President shall immediately assign the file to a member of the Panel by means of a decree. Such decree shall be immediately communicated by the Registry to the parties, who may deposit their observations within fifteen days from the notification. Within the same time limit, an objection application may be lodged against the designated member and, in this case, the judgement shall be suspended until a decision is made on the objection.
3. In the event of divergence between first and second instance judgements, a third instance judgement shall not be issued if the private losing party in the appeal withdraws the appeal within fifteen days from the notification of the appeal judgement, by filing a declaration with the Registry.

4. The judgement shall be deposited with the Registry within ninety days after the time limit specified in the second paragraph of this Article.

5. The judgement shall be notified to the parties concerned by the Registry, which shall also transmit the entire file to the Registry of the Administrative Court.

### **Art.28**

#### *(Third instance civil judgements)*

1. In the event of divergence between first and second instance judgements, or between parts thereof, in civil proceedings, the losing party in the appeal may appeal to the Guarantors' Panel within thirty days from the notification the appeal judgement.

2. The appeal shall be deposited with the Court Registry and filed in the relevant civil proceedings. After receiving the appeal, the Head Magistrate shall transmit the case file to the Guarantors' Panel.

3. The Panel's President shall immediately assign the appeal to a member of the Panel, who shall notify the appeal to the opposing parties and assign to all parties thirty days to file their observations. Within the same time limit, an objection application may be lodged against the designated member and, in this case, the judgement shall be suspended until a decision is made on the objection.

4. The file shall be kept pending the decision on the two diverging judgements or parts thereof, which shall be rendered within fifteen days after the expiry of the time limit in the preceding paragraph; during this period the parties may have access to procedural documents and deposit additional arguments.

5. The judgement shall be deposited with the Registry in the following next ninety days and it shall be considered published with its deposit.

6. After its filing, the Registry of the Guarantors' Panel shall notify the judgement to the interested parties and transmit the case file together with the decision to the Civil Registry.

## **Chapter V**

### **Review of criminal judgements**



## **Art.29**

1. A member of the Guarantors' Panel shall decide on appeals for the review of criminal judgements referred to in Articles 200 and 201 of the Code of Criminal Procedure, as amended by Law no. 20 of 24 February 2000.
2. The application shall be filed with the Criminal Registry, by enclosing any documents. The Registry shall transmit the file to the Guarantors' Panel.
3. The Panel's President shall immediately assign the appeal to a member of the Panel, who shall enforce the provisions in Articles 200 and 201 of the Code of Criminal Procedure, in so far as applicable.
4. The judgement shall be deposited with the Registry of the Guarantors' Panel, which shall notify it to the applicant and subsequently transmit the file with the decision to the Criminal Registry.

## **Chapter VI**

### **Appeals for *Restitutio in Integrum* and *Querela Nullitatis***

## **Art.30**

*(Competence and time limits)*

1. A member of the Guarantors' Panel shall be responsible for deciding on appeals for *Restitutio in integrum* and *Querela nullitatis* against final civil judgements and arbitration awards, which cannot be appealed against under Law no. 81 of 14 June 1995.
2. The appeal for *querela nullitatis* shall be filed with the Registry of the Guarantors' Panel within thirty days from the final judgement or the notification of the arbitration award, which cannot be appealed against.
3. The appeal for *restitutio in integrum* shall not be filed if a period of four years has elapsed from the final judgement or from the notification of the arbitration award, which cannot be appealed against.

## **Art.31**

### *Appeal*

1. Appeals referred to in Article 30 shall be addressed to the Guarantors' Panel and shall be deposited with the Court Registry, which shall include them in the relevant case file. In the event of an appeal against arbitration awards, which cannot be appealed against, to which a certified copy of the appealed award must be included, under pain of inadmissibility, the Registry shall open a specific case file.
2. The appeal shall indicate the reasons for requiring *restitutio in integrum* or the *nullitatis* of the judgement or award.
3. Within a period of twenty days from the filing, the Registry shall transmit the appeal, together with the integral and registered copy of the file to the Registry of the Guarantors' Panel, and shall notify it to the other parties in the proceedings.
4. The appeal shall not suspend the enforcement of the judgement or of the award appealed against. However, upon a specific and reasoned application, the Guarantors' Panel may order the suspension of the judgement, after having heard all the parties involved, when its enforcement may entail an unfair and irreparable damage to the party. Such suspension may be subject to an appropriate bail.

## **Art.32**

### *Proceedings*

1. Once he has received all acts, the Panel's President shall immediately assign the appeal to a member of the Panel.
2. The applicant, within the thirty-day time limit following the appeal, and the other parties in the proceedings, within thirty days following its notification, may deposit their observations and arguments with the Registry of the Guarantors' Panel. Within the same time limit, an objection application may be lodged against the designated member and, in this case, the judgement shall be suspended until a decision is made on the objection.
3. The file shall be kept pending the decision on the appeal, which shall be rendered within fifteen days after the expiry of the time limit in the preceding paragraph; during this period the parties may have access to the acts and deposit additional arguments. The judgement shall be filed with the Registry in the following ninety days and it shall be considered published with its filing.

4. The Registry of the Guarantors' Panel shall notify the judgement to the interested parties and transmit it with the case file to the Civil Registry for the fulfilment of the requirements falling under its competence.

## **CHAPTER VII**

### **Referral, transitional and coordination provisions.**

#### **Art.33**

*(Referral)*

1. For all matters not provided for, the civil, criminal and administrative rules of procedure in force shall continue to apply to the institutions indicated in this Title, insofar as these have not been expressly repealed or are in conflict with those in this Law.
2. The substantive and procedural rules in force shall apply to the proceedings before the Guarantors' Panel, insofar as compatible.

#### **Art.34**

*(Forms of appeal)*

1. Any appeal under this Title shall be drawn up in writing. It shall be addressed to the Panel, contain a clear and detailed statement of the facts, the supporting evidence deemed necessary by the applicant, as well as the reasons in law at the basis of the appeal.
2. The applicant shall complete the appeal with a clear and detailed indication of the requested decision.

#### **Art.35**

*(Transitional rule)*

1. The appeals under this Title, already transmitted to the consultants identified on the basis of the existing procedures, shall remain assigned to them.
2. The Guarantors' Panel shall be competent for the appeals already deposited with the competent bodies and/or offices but not yet transmitted to the consultant.
3. The Guarantors' Panel shall also be competent for the decisions on appeals transmitted to the consultants, if these have not been decided within the time limits assigned. In this case, the assignment conferred shall be deemed revoked and the files already delivered shall be returned and deposited with the Registry of the Guarantors' Panel.
4. Appeals for review of criminal judgements, which have been already assigned to the Judge of Criminal Appeal and not yet decided, shall remain under the competence of such judge.

## **Title VIII**

### **Tax provisions Transitional and final provisions**

#### **Art.36**

##### *(Tax provisions)*

1. The tax treatment of the acts and documents in the proceedings under this Law shall be the following:
  - appeals, documents, acts of the proceedings and the decisions of the Panel referred to in Titles III, IV, V and VI shall be exempt from registration and stamp duties. Registration of judgements shall be exempt from duties.
  - Appeals, documents, acts of the proceedings and the decisions of the Panel referred to in Title VII shall be subject to the registration and stamp duties envisaged by the rules in force for civil, administrative and criminal proceedings respectively.

#### **Art.37**

1. The decisions referred to in Articles 19, 25 and 26 of Law no. 101 of 28 November 1994, regarding referendum applications which have already been declared admissible by the Panel of Judges at the time of the entry into force of this Law, shall remain under the competence of the Panel of Judges.

2. Until the Guarantors' Panel takes office, the decisions on referendum applications which have already been deposited shall remain under the competence of the Panel of Judges referred to in Law no. 101 of 28 November 1994.

### **Art.38**

1. The Guarantors' Panel shall govern the performance of its functions by means of regulations, which shall be approved by a majority of its members, both full members and alternates, and which shall be published in the Official Bulletin.

2. The regulations shall indicate the predetermined criteria for the assignment of the proceedings referred to in Article 9 of Law no. 36 of 26 February 2002.

### **Art.39**

*(Remuneration)*

1. The full members of the Guarantors' Panel shall receive a monthly special duty allowance. The alternate members of the Guarantors' Panel shall receive a fee for every appeal or session they attend.

2. The special duty allowance and the fee in the preceding paragraph, initially established with an ad-hoc Regency Decree, will be disciplined by law when the reform of the judicial system is approved.

### **Art.40**

*(Registry)*

1. The Registry of the Guarantors' Panel is hereby established. It shall be composed of a Registrar and a Secretary, as referred to in Annex "A" to this Law. In case of impediment or absence of the Registrar, he shall be temporarily replaced by an official of the Institutional Secretariat.

2. The provisions of the Law no. 18 of 22 June 1915 (Provisions on the Registrar and Deputy Registrar of the Court) shall apply to the Registrar.

3. In order to carry out all notifications of the acts and measures relating to the proceedings before the Guarantors' Panel, the latter shall resort to the Judicial Officers of the Court.

**Art.41**

1. Any provision in contrast with this Qualified Law shall be repealed.

**Art.42**

1. This Qualified Law shall enter into force on the 15th day following that of its legal publication.

*Done at Our Residence, on 8 May 2003/1702 since the Foundation of the Republic*

THE CAPTAINS REGENT

*Pier Marino Menicucci - Giovanni Giannoni*

Annex A:

POSTS N. 1  
FUNCTIONS

REGISTRAR

- He performs all acts related to the administrative activity, with operational autonomy, within the framework of the legal requirements, under the direction and supervision of the President and members of the Guarantors' Panel, in the fulfilment of the procedural rules in force.
- He performs all functions concerning investigations, keeping of files, notifications and anything else required by law in this field.
- He is responsible for the organization and the coordination of the work of the administrative staff of the Registry of the Guarantors' Panel.

SPECIAL  
REQUIREMENTS

Flexible working hours for service needs.

EDUCATION

Law degree. (The qualification is an indispensable requirement envisaged by the last paragraph of Article 10 of Law no. 86 of 25 April 1980).

EXAM SUBJECTS

Public Law, Administrative Law, Civil Law.

QUALIFICATION

Official Responsible for the Operational Unit

SALARY LEVEL

9

POSTS N.1

SECRETARY

FUNCTIONS

- He performs administrative functions in the fulfilment of the tasks entrusted to the Office under the direction of the Registrar.
- Other functions: typewriting, copying, keeping and filing of dossiers and registers.

SPECIAL  
REQUIREMENTS

Flexible working hours for service needs.

EDUCATION

Junior secondary school diploma with qualification/specialization.

EXAM SUBJECTS

Professional subjects, typing.

QUALIFICATION

Administrative Operator

SALARY LEVEL

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