

The President of the Republic

having regard to articles 76 and 87 of the Constitution;

having regard to article 14 of law 23 February 1988, n. 400;

having regard to articles 11 and 14 of law 29 September 2000 n. 300 which delegates authority to the Government to adopt, within eight months of the date on which it comes into force, a legislative decree the purpose of which is to regulate administrative liability on the part of legal entities and companies, associations or bodies which are not corporations which do not perform constitutionally significant functions in accordance with the directive principles and criteria set out in article 11;

having regard to the resolution passed by the Council of Ministers, adopted at the meeting held on 11 April 2001;

having obtained opinions from the competent permanent committees of the Senate and the Chamber of Deputies, in accordance with article 14 paragraph 1 of the aforementioned law n.300 of 29 September 2000;

having regard to the resolution passed by the Council of Ministers at the meeting held on 2 May 2001;

Regarding the proposal by the Minister of Justice, in agreement with the Minister for Trade and Industry and Foreign Trade, with the European Union Policies Minister and with the Finance Minister;

issues the following legislative decree:

CHAPTER 1

BODIES' ADMINISTRATIVE LIABILITY

SECTION I

GENERAL PRINCIPLES AND CRITERIA FOR ATTRIBUTING ADMINISTRATIVE LIABILITY

Article 1

(Entities)

1. This legislative decree regulates bodies' liability for unlawful administrative acts relating to offences.
2. The provisions set out therein apply to corporate entities and companies and associations including those which are not bodies corporate.
3. They do not apply to the State, to territorial public bodies, to other non-economic public bodies or to bodies performing constitutionally significant functions.

Article 2

(Principle of legality)

1. Bodies may not be held liable for acts constituting offences if their administrative liability regarding such offences and related penalties is not expressly contemplated under a law coming into force prior to the date on which the offence is committed.

Article 3
(Succession of laws)

1. Bodies may not be held liable for actions which under a later law no longer constitute an offence or in respect of which bodies' administrative liability is no longer contemplated, and, in the event of conviction, enforcement and legal consequences are ineffective.
2. If the law at the time when the unlawful act was committed the subsequent laws are different, the law whose provisions are most favourable is applied, unless a final ruling has been made.
3. The provisions of paragraphs 1 and 2 are not applied in the event of exceptional or temporary laws.

Article 4
(Offences committed abroad)

1. In those cases contemplated by articles 7, 8, 9 and 10 of the criminal procedure code and subject to the conditions contained therein, bodies having their main place of business within the state are also liable in respect of offences committed abroad, provided that prosecution is not brought by the State in the place where the act is committed.
2. Where the law provides that the guilty party is punishable subject to a request being made by the Minister of Justice, prosecution is only brought against the body if the request is also made against the latter.

Article 5
(Bodies' liability)

1. A body is liable for offences committed in its interest or to its advantage:
 - a) by persons serving as representatives, or holding administrative or senior executive positions within the body or an organisational unit of same, and being financially and functionally independent, as well as by persons actually exercising management and control of same;
 - b) by persons under the direction or supervision of one of the persons as per subparagraph a).
2. The body cannot be held liable if the persons indicated in paragraph 1 act solely in their own interest or in the interest of others.

Article 6
(The body's senior officers and organisational models)

1. If an offence is committed by the persons indicated in article 5, paragraph 1, subparagraph a), the body is not liable if it is able to demonstrate that:
 - a) the senior executive organ adopted and efficiently enacted, prior to commission of the act, organisational and management models which are capable of preventing offences of the type occurring;
 - b) the task of overseeing such operations, compliance with the models and seeing to updating of same has been delegated to an organisation within the body vested with powers to act on its own initiative and conduct monitoring;
 - c) the persons committed the offence by fraudulently circumventing the organisational and management models;

d) there has been no omission or insufficient oversight on the part of the organisation referred to in subparagraph b).

2. With regards to the extension of delegated powers and the risk of committing offences, the models referred to in subparagraph a), of paragraph 1, must fulfil the following requirements:

- a) identify the activities in relation to which offences may be committed;
- b) provide for specific direct protocols and schedule training and implementation of decisions by the body regarding offences to be prevented;
- c) identify procedures for managing financial resources which are fit to prevent the commission of offences;
- d) provide for obligations to disclose information to the organisation tasked with overseeing the working of and compliance with the models;
- e) introduce a new disciplinary system to punish noncompliance with the measures set out in the model.

3. The organisational and management models may be adopted, by guaranteeing that the requirements set out in paragraph 2 are met, on the basis of codes of conduct drawn up by the associations representing the bodies, notified to the Ministry of Justice which, in concert with the competent ministries, may, within thirty days, draw up observations on the suitability of models designed to prevent offences.

4. In small-scale bodies the tasks set out in subparagraph b), of paragraph 1, may be performed directly by the senior executive organ.

5. In all cases the proceeds which the body obtains from the offence are seized, including in an equivalent form.

Article 7

(Persons subject to the direction of others and the body's organisational models)

1. Where contemplated by article 5, paragraph 1, subparagraph b), the body is liable if commission of the offence is made possible by means of noncompliance with the directive or oversight requirements.

2. However, noncompliance with the directive or oversight requirements is ruled out if the body, prior to commission of the offence, adopted and efficiently implemented an organisational, management and control model which is capable of preventing offences of the type occurring.

3. Regarding the type and size of the organisation and the type of activity performed, the model provides for measures to ensure performance of the activity in compliance with the law and to discover and promptly eliminate risk situations.

4. Efficient implementation of the model requires:

- a) regular verification and, where appropriate, amendments to same when significant breaches of rules are discovered or otherwise when changes are made to the organisation or the activity;
- b) a disciplinary system to punish noncompliance with the measures set out in the model.

Article 8

(Separate liability on the part of the body)

1. The board is also liable when:

- a) the perpetrator of the offence has not been identified or is not prosecutable;
- b) the offence is extinguished for a reason other than an amnesty.

2. Unless the law provides otherwise, no prosecution is brought against the body when an amnesty is granted for an offence which provides for liability of same and when the criminal defendant waives its claim to application of such amnesty.
3. The body may waive its claim to the amnesty.

SECTION II *PENALTIES IN GENERAL*

Article 9 *(Administrative penalties)*

1. Penalties for unlawful administrative acts relating to offences are:
 - a) fines;
 - b) disqualification;
 - c) seizure;
 - d) publication of the decision.
2. Disqualification is:
 - a) disqualification from exercising the activity;
 - b) suspension or cancellation of authorisations, licences or concessions serving to commit the unlawful act;
 - c) prohibition on entering into contracts with the public administration, unless done so in order to obtain a public service;
 - d) exclusion from benefits, loans, contributions or subsidies and possible cancellation of those already granted;
 - e) prohibition on publicising goods or services.

Article 10 *(Administrative fines)*

1. For unlawful administrative acts relating to offences, fines are imposed.
2. Fines are applied for quotas in a number which is no lower than one hundred and no greater than one thousand.
3. The amount of one quota ranges from no less than 258,00 Euro to a maximum amount of 1.549,00 Euro.
4. Discounted payment is not allowed.

Article 11 *(Criteria for determining the amount of the fine)*

1. In order to determine the amount of the fine the judge decides on the number of quotas taking account of the severity of the act, the degree of liability on the part of the body and the activity performed to eliminate or mitigate the consequences of the act and in order to prevent the commission of further unlawful acts.
2. The amount of the quota is set on the basis of the body's economic condition and its assets in order to ensure that the penalty is effective.

3. In those cases contemplated by article 12, paragraph 1, the amount of the quota is always 103,00 Euro.

Article 12
(Cases where the fine may be reduced)

1. The fine is reduced by half and in no case may be greater than 103.291,00 Euro if:
 - a) the perpetrator of the offence committed it primarily in his or her own interest or in the interest of third parties and the body obtained no advantage or obtained no minimum advantage;
 - b) the financial damage caused is particularly slight.
2. The penalty is reduced by between one third and one half if, prior to the commencement of court of first instance proceedings:
 - a) the body provided full compensation for the loss or damage and eliminated all harmful or hazardous consequences of the offence or otherwise if it took effective action to that end;
 - b) an organisational model is adopted and is implemented which is able to prevent offences of the type occurring.
3. In cases where both conditions provided for in the subparagraphs of the previous paragraph are met, the fine is reduced by between one half and two thirds.
4. In no cases may fines be lower than 10.329,00 Euro.

Article 13
(Disqualification)

1. Disqualification measures are applied in the event of offences for which disqualification is expressly provided, where at least one of the following conditions is met:
 - a) the body obtains significant profit from the offence and the offence is committed by senior officers or otherwise by persons reporting to others when, in this case, commission of the offence is caused or facilitated by severe organisational shortcomings;
 - b) in the event of repeated unlawful acts.
2. The duration of disqualification is no lower than three months and no greater than two years.
3. Disqualification measures do not apply in those cases contemplated by article 12, paragraph 1.

Article 14
(Criteria for selecting disqualification measures)

1. The subject matter of disqualification is the specific activity connected to the body's unlawful act. The judge determines the type and duration according to the criteria set out in article 11, taking into consideration the likelihood of each specific penalty preventing unlawful acts of the type occurring.
2. The prohibition on entering into contracts with the public administration may also be limited to particular types of contract or to particular authorities. Prohibition from exercising an activity entails suspension or cancellation of authorisations, licences or concessions serving to perform the activity.
3. If necessary, disqualification measures may be applied jointly.
4. Disqualification from exercising the activity is only imposed when other forms of disqualification are insufficient.

Article 15
(Temporary receiver)

1. If conditions are met for disqualification giving rise to interruption of the body's activity, in lieu of application of the penalty, the judge orders the body's activity to continue and to be run by a temporary receiver for a period amounting to the duration of the disqualification which would have been applied when at least one of the following conditions is met:
 - a) the body performs a public service or an essential public service interruption of which may cause serious harm to the community;
 - b) interruption to the body's activity may cause serious repercussions to levels of employment, taking into consideration the size and economic conditions of the territory in which it is situated.
2. With the decision arranging for continuation of the activity, the judge spells out the tasks and powers to be held by the temporary receiver, taking into consideration the specific activity in connection with which the unlawful acts has been committed by the body.
3. Within the scope of the tasks and powers spelled out by the judge, the temporary receiver deals with adoption and effective implementation of the organisational and control models to prevent offences of the type previously occurring. The temporary receiver may not engage in extraordinary administration without the judge's authorisation.
4. Profits arising from continuation of the activity are confiscated.
5. Continuation of the activity by the temporary receiver cannot be ordered when interruption of the activity is a consequence of disqualification, such imposition being final.

Article 16
(Final disqualification)

1. Final disqualification from exercising the activity may be ordered if the body obtains significant profits from the offence and if the body has already been sentenced, at least three times in the last seven years, to temporary disqualification from carrying on the activity.
2. The judge may disqualify the body, such decision being final, from entering into contracts with the public administration or otherwise may prohibit the body from advertising goods or services when the same penalty has already been imposed at list three times in the last seven years.
3. If the body or an organisational unit of same is used on an ongoing basis solely, or primarily to allow or to facilitate the commission of offences for which it may be found liable, the body is again disqualified from carrying on the activity, such decision being final, and the provisions of article 17 do not apply.

Article 17
(Remedying the consequences of the offence)

1. Without prejudice to the imposition of fines, disqualification measures are not applied when, prior to commencement of court of first instance proceedings, the following conditions are met:
 - a) the body has provided full compensation for the loss or damage and eliminated all harmful or hazardous consequences of the offence or otherwise if it has taken effective action to that end;
 - b) the body has eliminated the organisational shortcomings giving rise to the offence by adopting and implementing organisational models capable of preventing offences of the type previously occurring;

c) the body has made the profits obtained available for confiscation.

Article 18
(Publication of the conviction)

1. The judge may order that the conviction be published when the body is disqualified.
2. The decision is published only once, either in abridged form or in its entirety, in one or more newspapers indicated by the judge in the judgement in addition to being posted in the municipality where the body has its main offices.
3. The decision is published, by the clerk of court's office, and costs are paid by the body.

Article 19
(Confiscation)

1. When convicted, the proceeds and profits of the offence are always confiscated from the body, save for a portion which may be returned to an injured party. This is without prejudice to rights acquired by third parties in good faith.
2. When it is not possible to effect confiscation in accordance with paragraph 1, sums of money, assets or other valuable interests equivalent to the proceeds or the profits of the offence may be confiscated.

Article 20
(Repeat offences)

1. Offences are repeated when the body, which has already been convicted, such decision being final, at least once for an unlawful act relating to an offence, commits another one in the five-year period subsequent to final conviction.

Article 21
(Plurality of unlawful acts)

1. When the body is liable with regard to a plurality of offences committed in a single action or failure to act, or otherwise committed during performance of the same activity and prior to judgement being handed down even if such judgement is not final, the fine contemplated for the most serious unlawful act, increased up to three times, is levied. As a consequence of such increase, in no case may the amount of the fine be greater than the total of the penalties applicable for each unlawful act.
2. In certain cases contemplated in paragraph 1, when, regarding one or more of the unlawful acts, conditions for disqualification apply, the most serious form of disqualification is applied.

Article 22
(Statute of limitations)

1. Administrative penalties are time-barred five years after the date on which the offence is committed.
2. A motion for application of disqualifying interim measures and charges brought on the grounds of unlawful administrative acts in accordance with article 59 interrupts the limitation period.
3. As a consequence of said interruption a new limitation period commences.
4. If interruption occurs by means of a charge brought on the grounds of an unlawful administrative act relating to an offence, the limitation period does not run until a final judgement deciding the case is handed down.

Article 23

(Failure to comply with disqualification measures)

1. When performing actions for the body against which penalties or disqualifying interim measures have been imposed, whosoever breaches obligations or prohibitions pertaining to such penalties or measures, is punishable with imprisonment for between six months and three years.
2. In the case set out in paragraph 1, an administrative fine ranging from two hundred to six hundred quotas is imposed on the body in the interest of which or to the advantage of which an offence has been committed whilst the proceeds are confiscated in accordance with article 19.
3. If the body has obtained significant proceeds from the offence referred to in paragraph 1, disqualification is imposed; such disqualification may be different from disqualification enforced previously.

SECTION III

ADMINISTRATIVE LIABILITY ARISING AS A CONSEQUENCE OF AN OFFENCE

Article 24

(Misappropriation of public funding, fraud against the State or a public body or to obtain public funding or IT fraud against the State or against a public body)

1. Regarding commission of the felonies as per articles 316-bis, 316-ter, 640, paragraph 2 n. 1, 640-bis and 640-ter if committed against the State or another public body, of the criminal code, a fine of up to five hundred quotas is levied on the body.
2. If following commission of the felonies as per paragraph 1, the body obtains significant profit, or such felonies give rise to particularly serious loss or damage, a fine of between two hundred and six hundred quotas is levied.
3. In those cases contemplated by the above paragraphs, disqualification contemplated under article 9, paragraph 2, subparagraph c), d) and e) is enforced.

Article 24-bis.

(IT-related felonies and unlawful processing of data)

1. Regarding commission of the felonies as per articles 615-ter, 617-quater, 617-quinquies, 635- bis, 635-ter, 635-quarter and 635-quinquies of the criminal code, a fine ranging from one hundred to five hundred quotas is imposed on the body.
2. Regarding commission of the felonies as per articles 615-quarter and 615-quinquies of the criminal code, a fine of up to three hundred quotas is imposed on the body.
3. With regard to commission of the felonies as per articles 491-bis and 640-quinquies of the criminal code, unless provided for under article 24 of this decree for cases of IT fraud against the State or another public body, a fine of up to four hundred quotas is imposed on the body.
4. In the event of a conviction for one of the felonies referred to in paragraph 1, disqualification measures as provided for under article 9, paragraph 2 subparagraphs a), b) and e) are imposed. In the event of a conviction for one of the felonies referred to in paragraph 2, disqualification measures as provided for under article 9, paragraph 2 subparagraphs b) and e) are imposed. In the event of a conviction for one of the felonies referred to in paragraph 3, disqualification measures as provided for under article 9, paragraph 2 subparagraphs c), d) and e) are imposed.

Article 24-ter
(Felonies committed by criminal organisations)

1. With regard to commission of several of the felonies referred to in articles 416, sixth paragraph, 416-bis, 416-ter and 630 of the criminal code, those committing the felonies and in the process meeting conditions contemplated by the aforementioned article 416 bis, or otherwise to facilitate the activity of associations contemplated by said article, in addition to the felonies contemplated by article 74 of the unified law as per presidential decree n. 309 of 9 October 1990, are fined between four hundred and one thousand quotas.
2. Regarding commission of several of the felonies as per article 416 of the criminal code, excluding the sixth paragraph, or otherwise as per article 407, paragraph 2, subparagraph a), number 5), of the criminal procedure code, the fine ranges from three hundred to eight hundred quotas.
3. In the event of a conviction for one of the felonies referred to in paragraphs 1 and 2, disqualification as provided for under article 9, paragraph 2 is imposed for a duration of no less than one year.
4. If the body or an organisational unit of same is used on a permanent basis solely or primarily to allow or facilitate the commission of offences indicated in paragraphs 1 and 2, disqualification from carrying on the activity pursuant to article 16, paragraph 3, is imposed, such disqualification being final.

Article 25
(Concussione, undue inducement to give or promise an advantage and bribery)

1. Regarding commission of the felonies as per articles 318, 321 and 322, paragraphs 1 and 3 of the criminal code, a fine up to two hundred quotas is imposed.
2. Regarding commission of the felonies as per articles 319, 319-ter, paragraph 1, 321 and 322, paragraphs 2 and 4 of the criminal code, a fine of between two hundred and six hundred quotas is levied on the body.
3. With regard to commission of the felonies as per articles 317, 319, aggravated pursuant to article 319-bis when the body obtains significant proceeds therefrom, 319-ter, paragraph 2, 319-quater and 321 of the criminal code, the body is fined between three hundred and eight hundred quotas.
4. The fines contemplated for the felonies as per paragraphs 1 to 3 also apply to the body when such felonies are committed by the persons indicated in articles 320 and 322-bis.

5. In the event of a conviction for one of the felonies referred to in paragraphs 2 and 3, disqualification as provided for under article 9, paragraph 2 is imposed for a duration of no less than one year.

Article 25-bis.

(Forgery of money, money values having legal tender or revenue stamps and instruments or identification signs)

1. With regard to commission of the felonies contemplated by the criminal code pertaining to forgery of money, money values having legal tender or revenue stamps and instruments or identification signs, the body is fined as follows:

- a) for the felony as per article 453 a fine of up to eight hundred quotas;
- b) for the felony as per articles 454, 460 and 461, a fine of up to five hundred quotas;
- c) for the felony as per article 455, the fines set forth in subparagraph a), regarding article 453, and as set forth in subparagraph b), regarding article 454, reduced by between one half and one third;
- d) for the felonies as per articles 457 and 464, second paragraph, fines of up to two hundred quotas;
- e) for the felony as per article 459 the fines contemplated by subparagraphs a), c) and d), reduced by one third;
- f) for the felony as per article 464, first paragraph, a fine of up to three hundred quotas;
- f bis) for the felonies as per articles 473 and 474, a fine of up to five hundred quotas;

2. In the event of a conviction for one of the felonies referred to in articles 453, 454, 455, 459, 460, 461, 473 and 474 disqualification as provided for under article 9, paragraph 2 is imposed for a duration no greater than one year.

Article 25-bis.1

(Felonies against industry and commerce)

1. Regarding commission of felonies against industry and commerce contemplated under the criminal code, the following fines are imposed on the body:

- a) for the felonies as per articles 513, 515, 516, 517, 517-ter and 517-quater, a fine of up to five hundred quotas;
- b) for the felonies as per articles 513-bis and 514, a fine of up to eight hundred quotas.

2. In the event of a conviction for one of the felonies referred to in subparagraph b) of paragraph 1, disqualification as provided for under article 9, paragraph 2 is imposed.

Article 25-ter

(Corporate offences)

(The fines provided for under this article are doubled in accordance with the provisions of article 39 paragraph 5 of the law n. 262 of 28 December 2005)

1. Regarding corporate offences contemplated by the civil code, if committed in the interest of the Company by administrators, general managers or liquidators or by persons reporting to same, should the fact not have occurred had they performed their oversight duties in compliance with the obligations of the office, the following fines are imposed:

- a) for the misdemeanour of false reporting, contemplated by article 2621 of the civil code, a fine of between one hundred and one hundred and fifty quotas;

b) for the felonies of false reporting to the prejudice of shareholders or creditors, contemplated by article 2622, first paragraph of the civil code, a fine of between one hundred and fifty and three hundred quotas;

c) for the felony of false reporting to the prejudice of shareholders or creditors, contemplated by article 2622, third paragraph of the civil code, a fine of between two hundred and four hundred quotas;

d) for the misdemeanour of false statements in a prospectus, contemplated by article 2623, first paragraph of the civil code, a fine of between one hundred and one hundred and thirty quotas;

e) for the felony of false statements in a prospectus, contemplated by article 2623, second paragraph of the civil code, a fine of between two hundred and three hundred and fifty quotas;

f) for the misdemeanour of false reports or notices drawn up by the auditing company, contemplated by article 2624, first paragraph of the civil code, a fine of between one hundred and one hundred and thirty quotas;

g) for the misdemeanour of false reports or notices drawn up by the auditing companies, contemplated by article 2626, second paragraph of the civil code, a fine of between two hundred and four hundred quotas;

h) for the felony of hindering the exercise of control, contemplated by article 2625, second paragraph of the civil code, a fine of between one hundred and one hundred and eighty quotas;

i) for the offence of sham formation of capital, contemplated by article 2632 of the civil code, a fine of between one hundred and one hundred and eighty quotas;

l) for the felony of unlawful restitution of contribution of capital, contemplated by article 2626 of the civil code, the fine is between one hundred and one hundred and eighty quotas;

m) for the misdemeanour of illegal distribution of profits and reserves, contemplated by article 2627 of the civil code, the fine is between one hundred and one hundred and thirty quotas;

n) for the felony of unlawful transactions in respect of shares or quotas or the parent company contemplated by article 2628 of the civil code, a fine of between one hundred and one hundred and eighty quotas;

o) for the felony of operations injurious to creditors, contemplated by article 2629 of the civil code, a fine of between one hundred and fifty and three hundred and thirty quotas;

p) for the felony of unlawful distribution of corporate assets by liquidators, contemplated by article 2633 of the civil code, the fine is between one hundred and fifty and three hundred and thirty quotas;

q) for the felony of unlawful influence over the shareholders' meeting, contemplated by article 2636 of the civil code, a fine of between one hundred and fifty and three hundred and thirty quotas;

r) for the felony of market manipulation contemplated by article 2637 of the civil code and for the felony of failure to disclose a conflict of interests contemplated by article 2629 bis of the civil code, the fine is between two hundred and five hundred quotas;

s) for felonies involving hindering public authorities from exercising their supervisory functions, contemplated by article 2638, first and second paragraph of the civil code, the fine is between two hundred and four hundred quotas;

s-bis) for the crime of corruption between private persons, in the cases provided by paragraph 3 in Article 2635 of the civil code, the pecuniary penalty of from two-hundred to four-hundred shares."

2. If, subsequent to the commission of offences as per paragraph 1, the body obtains significant proceeds, the fine is increased by one third.

Article 25-quater

(Felonies committed for purposes of terrorism or felonies designed to subvert democracy)

1. With regard to the commission of crimes for purposes of terrorism or subversion of the democratic system, as contemplated by the criminal code and by special laws, the following fines are imposed on the body:
 - a) if the perpetrator of a crime is sentenced to imprisonment for less than ten years, the fine ranges from two hundred to seven hundred quotas;
 - b) if the felony is punishable with imprisonment for a period of no less than ten years or life imprisonment, the fine ranges from four hundred to one thousand quotas.
2. In the event of a conviction for one of the felonies referred to in paragraph 1, disqualification as provided for under article 9, paragraph 2 is imposed for a duration of no less than one year.
3. If the body or an organisational unit of same is used on a permanent basis solely or primarily to allow or facilitate the commission of offences indicated in paragraph 1, disqualification from carrying on the activity pursuant to article 16, paragraph 3, is imposed, such disqualification being final.
4. The provisions of paragraphs 1, 2 and 3 also apply with regard to the commission of felonies other than those set out in paragraph 1 which have been committed in breach of the provisions of article 2 of the International Convention for the Suppression of the Financing of Terrorism signed in New York on 9 December 1999.

Article 25-quater¹
(*Mutilation of women's genitals*)

1. With regards to the commission of the felonies described in article 583 bis of the criminal code, the body within which the felony is committed is fined between three hundred and seven hundred quotas and the disqualification contemplated in article 9, paragraph 2 is imposed for a period of no less than one year. In cases where there is an accredited private body, accreditation is also revoked.
2. If the body or an organisational unit of same is used on a permanent basis solely or primarily to allow or facilitate the commission of offences indicated in paragraph 1, disqualification from carrying on the activity pursuant to article 16, paragraph 3, is imposed, such disqualification being final.

Article 25-quinquies
(*Felonies against individual's freedoms*)

1. With regards to the commission of the felonies contemplated by section I of chapter III of title XII of book II of the criminal code, the following fines are levied on the body:
 - a) for the felonies described in articles 600, 601 and 602, a fine ranging from four hundred to one thousand quotas;
 - b) for the felonies described in articles 600-bis, first paragraph, 600-ter, first and second paragraph, even if relating to pornographic material as per article 600-quater¹, and 600-quinquies, a fine between three hundred and eight hundred quotas is levied;
 - c) for the felonies described in articles 600 bis, second paragraph, 600 ter, third and fourth paragraph and 600 quater, even if relating to pornographic material as per article 600-quater 1, a fine of between two hundred and seven hundred quotas is levied.
2. In the event of a conviction for one of the felonies referred to in paragraphs 1 subparagraph a) and b), disqualification as provided for under article 9, paragraph 2, is imposed for a duration of no less than one year.
3. If the body or an organisational unit of same is used on a permanent basis solely or primarily to allow or facilitate the commission of offences indicated in paragraph 1, disqualification from

carrying on the activity pursuant to article 16, paragraph 3, is imposed, such disqualification being final.

Article 25-sexies
(Market abuse)

1. With regards to the offences of abuse of privileged information and market manipulation contemplated by part V, title I-bis, chapter II of the unified law, as per legislative decree n. 58 of 24 February 1998, the body is fined between four hundred and one thousand quotas.
2. If, subsequent to commission of the offences as per paragraph 1 the product or the proceeds obtained by the body are a significant amount, the fine is increased by up to 10 times the amount of the product or proceeds.

Article 25-septies
(Manslaughter or serious bodily harm committed with breach of laws governing the safeguarding of workplace health and safety)

1. Regarding the felony as per article 589 of the criminal code, committed in breach of article 55, paragraph 2, of the legislative decree enacting the enabling law as per law n. 123 of 3 August 2007 governing workplace health and safety, a fine is levied amounting to one thousand quotas. In the eventuality of conviction for the offence referred to in the previous point, disqualification is imposed as per article 9, paragraph 2, for a duration of no less than three months and no greater than one year.
2. Save for the provisions of paragraph 1, pertaining to the felony as per article 589 of the criminal code, committed in breach of the law safeguarding workplace health and safety, a fine of no less than two hundred and fifty quotes and no more than five hundred quotas is levied. In the eventuality of conviction for the offence referred to in the previous point, disqualification is imposed as per article 9, paragraph 2, for a duration of no less than three months and no greater than one year.
3. Regarding the felony as per article 590, third paragraph of the criminal code, committed in breach of the laws safeguarding workplace health and safety, a fine no greater than two hundred and fifty quotas is levied. In the event of conviction for the felony referred to in the previous point, disqualification is imposed as per article 9, paragraph 2, for a duration no greater than six months.

Article 25-octies
(Handling stolen goods, laundering and use of money, assets or benefits whose origin is illegal)

1. With regard to offences as per articles 648, 648-bis and 648-ter of the criminal code, the body is fined between two hundred and eight hundred quotas. Should the money, assets or other benefits originate from a felony carrying a sentence of imprisonment with the maximum sentence being greater than five years, a fine of between four hundred and one thousand quotas is levied.
2. In the event of a conviction for one of the felonies referred to in paragraph 1, disqualification as provided for under article 9, paragraph 2 is imposed for a duration of no greater than two years.

3. Regarding the unlawful acts as per paragraphs 1 and 2, having consulted the UIF, the Ministry of Justice, makes the following observations as per article 6 of legislative decree n. 231 article 25 novies of 8 June.

Article 25-novies
(Felonies regarding breach of copyright)

1. With regard to commission of the felonies contemplated by articles 171, first paragraph, subparagraph a-bis), and third paragraph, 171-bis, 171-ter, 171-septies and 171-octies of law n.633 of 22 April 1941, the body may be fined up to five hundred quotas.
2. In the event of a conviction for the felonies referred to in paragraph 1, disqualification as provided for under article 9, paragraph 2 is imposed for a duration no greater than one year. This is without prejudice to the provisions of article 174-quinquies of the aforementioned law n. 633 of 1941.

Article 25-decies
(Inducements not to make statements or to make false statements to the courts)

1. Regarding commission of the felony as per article 377-bis of the criminal code, a fine of up to five hundred quotas is levied on the body.

Article 25-undecies
(Environmental crimes)

1. With regards to the commission of the felonies contemplated by the criminal code, the following fines are levied on the body:
 - a) for the felony described in article 727-bis, a fine of up to two hundred and fifty quotas;
 - b) for the felony described in article 733-bis, a fine between one hundred and fifty and two hundred and fifty fifty quotas;
2. With regards to the commission of the felonies contemplated by the legislative decree n. 152 of 3 april 2006, the following fines are levied on the body:
 - a) for the offences described in article 137:
 - 1) for the felonies described in paragraphs 3 and 5, first sentence, and 13, a fine between one hundred and fifty and two hundred and fifty fifty quotas;
 - 2) for the felonies described in paragraphs 2, 5, second sentence, and 11, a fine between two hundred and three hundred quotas;
 - b) for the offences described in article 256:
 - 1) for the felonies described in paragraphs 1, subparagraph a) and 6, first sentence, a fine up to two hundred quotas;
 - 2) for the felonies described in paragraphs 1, subparagraph b), 3, first sentence, and 5, a fine between one hundred and fifty and two hundred and fifty fifty quotas;
 - 3) for the felony described in paragraph 3, second sentence, a fine between two hundred and three hundred quotas;
 - c) for the offences described in article 257:
 - 1) for the felony described in paragraphs 1, a fine up to two hundred and fifty quotas;
 - 2) for the felony described in paragraph 2, a fine between one hundred and fifty and two hundred and fifty quotas;

- d) for the felony described in article 258, paragraph 4, second sentence, a fine between one hundred and fifty and two hundred and fifty quotas;
- e) for the felony described in article 259, paragraph 1, a fine between one hundred and fifty and two hundred and fifty quotas;
- f) for the felony described in article 260, a fine between three hundred and fifty hundred quotas, in the case described in paragraph 1, and between four hundred and eight hundred quotas, in the case described in paragraph 2;
- g) for the felony described in article 260-bis, a fine between one hundred and fifty and two hundred and fifty quotas, in the case described in paragraphs 6, 7, second and third sentences, and 8, first sentence, and a fine between two hundred and three hundred quotas in the case described in paragraph 8, second sentence;
- h) for the felony described in article 279, paragraph 5, a fine up to two hundred and fifty quotas.
3. With regards to the commission of the felonies contemplated by the law 7 February 1992, n. 150, the following fines are levied on the body:
- a) for the felony described in article 1, paragraphs 1, 2, paragraphs 1 and 2, and 6, paragraph 4, a fine of up to two hundred and fifty quotas;
- b) for the felony described in article 1, paragraph 2, a fine between one hundred and fifty and two hundred and fifty quotas;
- c) for the offences contemplated in the criminal code and recalled by article 3-bis of the law n. 150 of 1992, respectively:
- 1) a fine up to two hundred and fifty quotas, in the case of commission of an offence for which law provides imprisonment of not more than one year;
 - 2) a fine between one hundred and fifty and two hundred and fifty quotas, in the case of commission of an offence for which law provides imprisonment of not more than two years;
 - 3) a fine between two hundred and three hundred quotas, in the case of commission of an offence for which law provides imprisonment of not more than three years;
 - 4) a fine between three hundred and five hundred quotas, in the case of commission of an offence for which law provides imprisonment of more than three years;
4. Regarding commission of the felony as per article 3, paragraph 6, of law 28 December 1993, n. 549, a fine between one hundred and fifty and two hundred and fifty quotas is levied on the body.
5. With regards to the commission of the felonies contemplated by legislative decree 6 November 2007, n. 202, the following fines are levied on the body:
- a) for the felony described in article 9, paragraphs 1, a fine of up to two hundred and fifty quotas;
- b) for the felonies described in article 8, paragraphs 1, and 9, paragraph 2, a fine between one hundred and fifty and two hundred and fifty quotas;
- c) for the felony described in article 8, paragraphs 2, a fine between two hundred and three hundred quotas;
6. The fines contemplated for the felonies as per paragraphs 2, paragraph 2, subparagraph b) are reduced by half in the case of commission of the offence described in article 256, paragraph 4, of legislative decree 3 April 2006, n. 152.
7. In the event of a conviction for one of the felonies referred to in paragraphs 2, subparagraph a), n.2), b, n.3), and f), and paragraph 5, subparagraph b) and c), disqualification as provided for under article 9, paragraph 2, is imposed for a duration of no less than six months.
8. If the body or an organisational unit of same is used on a permanent basis solely or primarily to allow or facilitate the commission of offences described in article 260 of the legislative decree 3 April 2006, n. 152, and in article 8 of the legislative decree 6 November 2007, n. 202, disqualification from carrying on the activity pursuant to article 16, paragraph 3, is imposed, such disqualification being final.

(Attempted felonies)

1. Fines and disqualification measures are reduced by one third to a half with respect to commission of the offences set out in this chapter of the decree, in the case of attempted felonies.
2. The body is not liable when of its own volition it prevents the action or completion of the event.

CHAPTER II
FINANCIAL LIABILITY AND EVENTS MODIFYING A BODY

SECTION I
THE BODY'S FINANCIAL LIABILITY

Article 27
(The body's financial liability)

1. Regarding the obligation to pay the fine, the body is liable solely with its assets and with the shared fund.
2. The State's payment rights deriving from unlawful administrative acts committed by the body and relating to offences have priority, in accordance with the provisions of the criminal procedure code over payment rights relating to an offence. To this end, two types of fine are treated as equivalent.

SECTION II
(EVENTS MODIFYING A BODY)

Article 28
(Reorganisation of a body)

1. Should a body be reorganised, this has no impact on liability for offences committed prior to the date on which the reorganisation is effective.

Article 29
(Merger of a body)

1. In the event of merger, including by incorporation, the resulting body is liable for offences for which the bodies taking part in the merger were liable.

Article 30
(Demerger of a body)

1. In the event of partial demerger, the body which was spun off retains liability for the offences committed prior to the date on which the demerger becomes effective without prejudice to the provisions of paragraph 3.
2. The bodies benefiting from the demerger, whether total or partial, are jointly and severally liable to pay fines due by the body which is demerged prior to the date from which the demerger becomes effective. The obligation is limited to the actual value of the net worth transferred to the individual body, unless it is a body to which the business unit within which the offence is committed, is transferred, including part of the business unit.
3. Disqualification measures relating to the offences indicated in paragraph 2 are imposed on bodies retaining the business unit within which the offence is committed or bodies to which it is transferred, including partially.

Article 31
(Determining penalties in the event of merger or demerger)

1. If the merger or demerger has taken place prior to completion of the legal proceedings, the court, when determining the fine in accordance with article 11, paragraph 2, takes into consideration the economic and financial conditions of the body which was originally liable.
2. Without prejudice to the provisions of article 17, the body coming into being as a result of the merger and the body to which, in the event of demerger, disqualification may apply, may file a motion to substitute such disqualification with a fine, should, following merger or demerger, the condition required under subparagraph b) of paragraph 1 of article 17 be met, and should the additional conditions set out in subparagraphs a) and c) of the same article also be met.
3. If the motion is upheld, the judge when convicting, substitutes the disqualification measure with a fine in an amount equal to one or two times the fine imposed on the body regarding the same offence.
4. The body retains the right, also in the event of merger or demerger subsequent to conclusion of the proceedings, to file a motion to have the disqualification measure converted into a fine.

Article 32
(Significance of the merger or the demerger with regard to repeat offences)

1. In the event of liability on the part of the body coming into being through the merger or benefiting from the demerger, for offences committed after the date on which the merger or demerger becomes effective, the court may find that the offence has been repeated, in accordance with article 20, also with respect to convictions handed down against bodies participating in the merger or against the demerged body for offences committed prior to such date.
2. To this end the court takes into account the type of breach and the activity in respect of which breaches have been committed in addition to the characteristics of the merger or the demerger.
3. With respect to the bodies benefiting from the demerger, the court may find that there has been a repeat offence, in accordance with paragraphs 1 and 2, only if the business activity in relation to which the offence has been committed and in respect of which the demerged body has been convicted, has been transferred to such bodies, including partially.

Article 33
(Assignment of an undertaking)

In the event of assignment of an undertaking in relation to which an offence has been committed, the assignee is jointly and severally liable for payment of the fine, without prejudice to the right to make first claims for payment on the part of the assigning body and subject to the limit of the value of the undertaking.

The obligation on the part of the assignee is limited to fines recorded in the mandatory accounts, or otherwise to fines payable for unlawful administrative acts about which it has however been aware. The provisions of this article also apply to contribution of an undertaking.

CHAPTER III
*PROCEEDINGS FOR DETERMINING AND APPLYING
ADMINISTRATIVE PENALTIES*

SECTION I
GENERAL PROVISIONS

Article 34
(Applicable procedural provisions)

1. For proceedings relating to unlawful administrative acts arising out of an offence, the provisions of this chapter are complied with, in addition, to the extent that they are compatible, to the provisions of the criminal procedure and legislative decree n. 271 article 35 of 28 July.

Article 35
(Extension of liability relating to defendants)

The procedural provisions relating to defendants, to the extent that they are compatible, apply to the body.

SECTION II
PERSONS, JURISDICTION AND COMPETENCE

Article 36
(Assignment of the criminal law court)

1. Competence to decide on unlawful administrative acts committed by the body lies with the criminal law court which has jurisdiction over the offences relating to such acts.

2. For proceedings to investigate unlawful administrative acts committed by the body, it is necessary to comply with the provisions governing composition of the court and associated procedural provisions concerning the offences relating to the unlawful administrative act.

Article 37
(Cases of preclusion)

1. It is not possible to proceed to investigate unlawful administrative acts committed by bodies when criminal action cannot be commenced or pursued against the perpetrator of the offence due to a prosecution condition not being fulfilled.

Article 38
(Joining and separating proceedings)

1. Proceedings relating to unlawful administrative acts committed by the body are joined with criminal law proceedings brought against the perpetrator of the offence relating to the unlawful act.

2. Proceedings are brought separately in respect of unlawful administrative acts committed by a body only when:

- a) suspension of the proceedings has been ordered pursuant to article 71 of the criminal procedure code;
- b) the case has been settled by means of fast track proceedings or by handing down the sentence pursuant to article 444 of the criminal procedure code, or otherwise a criminal conviction decree has been issued;
- c) compliance with the procedural provisions renders it necessary.

Article 39
(Representation of the body)

1. The body takes part in the criminal proceedings with its legal representative, unless such representative is charged with the offence to which the unlawful administrative act relates.

2. The body which intends to take part in the proceedings files an appearance by filing a statement in the Clerk of Court's office which contains the following, failing which it is held to be inadmissible:

- a) the name of the body and the particulars of its legal representative;
- b) the name and surname of legal counsel and details of the power of attorney;
- c) signature by the defence counsel;
- d) declaration or election of legal domicile.

3. The power of attorney which must be granted in the manner laid down by article 100, paragraph 1 of the criminal procedure code is filed at the public prosecutor's office or in the clerk of court's office or otherwise it must be submitted together with the declaration as per paragraph 2.

4. When the legal representative does not appear, the body which submits itself to the court's jurisdiction is represented by legal counsel.

Article 40
(Court-appointed attorney)

Any body which fails to appoint legal counsel or which is without legal counsel, is assisted by a court-appointed attorney.

Article 41
(Default of appearance)

1. Any body which fails to submit itself to the court's jurisdiction is declared absent.

Article 42
(Events modifying the body during the course of legal proceedings)

1. In the event of reorganisation, merger or demerger of the body which was originally liable, proceedings continue against the body coming into being as a consequence of these events or against the body benefiting from the demerger, which takes part in the legal proceedings, in its then current state, filing declarations as per article 39, paragraph 2.

Article 43
(Notices to the body)

1. For the first notice served on the body it is necessary to comply with the provisions of article 154, paragraph 3 of the criminal procedure code.
2. In any case notices served by delivering them to the legal representative are valid, even if such legal representative is charged with having committed the offence relating to the unlawful administrative act.
3. Should the body have declared or elected legal domicile in the declaration as per article 39 or in another notice to the court, such notices are served in accordance with article 161 of the criminal procedure code.
4. If it is not possible to serve the notices in the manner set forth in the above paragraphs, the court arranges for the body to be sought in another manner. Should such actions be fruitless, at the request of the public prosecutor, the judge suspends proceedings.

SECTION III
EVIDENCE

Article 44
(Witness incompatibility)

1. The following may not be witnesses:

- a) any person charged with the offence relating to the unlawful administrative act;
- b) any person representing the body indicated in the declaration as per article 39, paragraph 2 and who also performed this function when the offence was committed.

2. In the event of incompatibility, the person representing the body may be interrogated and examined according to procedures, subject to the limitations and with consequences provided for formal questioning and for examining the defendant in related proceedings.

SECTION IV *INTERIM MEASURES*

Article 45 *(Application of interim measures)*

1. When there is serious circumstantial evidence that the body is liable for an unlawful administrative act relating to an offence and provided there are well grounded specific elements leading a public prosecutor to believe that there is a very real danger that unlawful acts of the same type in respect of which prosecution was brought, may be committed, the public prosecutor may file for application of one of the disqualification measures provided for under article 9, paragraph 2, by way of an interim measure, presenting to the court all elements on which the motion is based, including elements favourable to the body and any new submissions and defence briefs already filed.

2. With regard to this request the court issues an order, also stating the manner in which such measure is to be applied. The provisions of article 292 of the criminal procedure code are complied with.

3. In lieu of the disqualifying interim measure, the court may appoint a temporary receiver in accordance with article 15 for a period equal to the duration of the measure which would have been applied.

Article 46 *(Criteria for selecting measures)*

1. When arranging for interim measures the court takes into consideration the specific suitability of each one regarding the type and level of interim measure requirements with regard to the specific case.

2. Any and all interim measures must be proportionate to the severity of the act and to the penalty which it is deemed should be imposed on the body.

3. Disqualification from exercising the activity may be ordered as an interim measure only when all other measures have proven to be insufficient.

4. Interim measures may not be applied jointly.

Article 47 *(Court having jurisdiction and application proceedings)*

1. Regarding application and revocation of interim measures and regarding changes made to the manner in which they are enforced, the court having jurisdiction proceeds. During investigations the judge responsible for conducting preliminary investigations proceeds. The provisions of article 91 of legislative decree n. 271 of 28 July 1989 are also applied.
2. If the motion to apply interim measures is filed outside the hearing, the judge schedules the date of the hearing and ensures that the public prosecutor, the body and legal counsel are informed. The body and its legal counsel are also notified that they may examine the public prosecutor's motion and the elements on which it is based, in the clerk of court's office.
3. In the hearing provided for under paragraph 2, it is necessary to comply with the forms laid down in article 127, paragraphs 1, 2, 3, 4, 5, 6 and 10 of the criminal procedure code; the time limits provided for under paragraphs 1 and 2 of the same article are reduced, respectively, to five and three days. Between the date on which the motion is filed and the date on which the hearing is held, no more than fifteen days may elapse.

Article 48 (Enforcement procedures)

1. The public prosecutor is responsible for serving the court order arranging for application of an interim measure.

Article 49 (Suspension of interim measures)

1. Interim measures may be suspended if the body files a motion requesting permission to complete procedures on which the law makes the exclusion of disqualifying measures conditional, in accordance with article 17. In such case, having consulted the public prosecutor, the court, if it is minded to uphold the motion, sets a sum of money by way of a security deposit, orders suspension of the measure and sets a time limit for making good the harm done in accordance with article 17.
2. The security deposit consists of a deposit at the Fines Fund of a sum of money which may be no less than half the minimum fine contemplated for the unlawful act in question. In lieu of the deposit it is possible to provide a guarantee by means of joint and several mortgage or bank guarantee.
3. In the event of failure to perform the activities within the established time limit or incomplete performance or ineffective performance of same, the interim measure is restored and the sum deposited or in respect of which a guarantee has been provided is transferred to the Fines Fund.
4. If the conditions set out in article 17 are met, the court revokes the interim measure and orders the return of the sum deposited or cancellation of the mortgage; the bank guarantee provided is extinguished.

Article 50 (Revocation or substitution of interim measures)

1. The interim measures are also automatically revoked when, also by reason of supervening facts, the conditions for application provided for by article 45 are not fulfilled or otherwise when the situations contemplated by article 17 obtain.

2. When the interim measure requirements are mitigated or otherwise when the measure applied no longer appears proportionate to the scale of the circumstance or the penalty which the court is minded to apply on a definitive basis, at the request of the public prosecutor or the body, the court substitutes the measure with another less severe measure or otherwise orders application in a less severe manner, also establishing a shorter duration.

Article 51

(Maximum duration of interim measures)

1. When ordering interim measures the court determines the duration, which can be no longer than half the maximum period set out in article 13, paragraph 2.
2. After conviction in the court of first instance, the duration of the interim measure may have the same duration as the corresponding penalty applied with the same decision. In no case, may the duration of the interim measure exceed two thirds of the maximum time limit set out in article 13, paragraph 2.
3. The duration time limit for interim measures takes effect from the date on which the order is served.
4. The duration of the interim measures is calculated according to the duration of the penalties applied on a definitive basis.

Article 52

(Appealing against decisions imposing interim measures)

1. The public prosecutor and the body, by means of its legal counsel, may appeal against all the decisions relating to interim measures, at the same time providing grounds for the appeal. The provisions of article 322-bis, paragraphs 1-bis and 2 of the criminal procedure code are applied.
2. Against the decision issued in accordance with paragraph 1, the public prosecutor and the body, by means of its legal counsel, may appeal to the Supreme Court of Cassation on the grounds that the law has been breached. The provisions of article 325 of the criminal procedure code are applied.

Article 53

(Prior attachment)

1. The court may order attachment of the assets which it is possible to confiscate in accordance with article 19. The provisions of articles 321, paragraphs 3, 3-bis and 3-ter, 322, 322-bis and 323 of the criminal procedure code are complied with, to the extent that they apply.

Article 54

(Attachment of assets)

1. If there is a well grounded reason to believe that the guarantees for payment of the fine, the court costs and all other sums due to the State may be missing or may be dispersed, at any stage of the

proceedings on the merits, the public prosecutor may file a motion for attachment of the body's movable and immovable assets or sums or goods due to same. The provisions of articles 316, paragraph 4, 317, 318, 319 and 320 of the criminal procedure code are complied with, to the extent that they apply.

SECTION V *PRELIMINARY INVESTIGATIONS AND PRELIMINARY HEARING*

Article 55 *(Annotation of the unlawful administrative act)*

1. The public prosecutor who gains notice of any unlawful administrative act relating to an offence committed by the body immediately enters in the register as per article 335 of the criminal procedure code, all elements identifying the body, where possible, together with the personal details of its legal representative in addition to the offence relating to the unlawful administrative act.
2. The annotation as per paragraph 1 is notified to the body or to its legal counsel when requested subject to the same limitations as govern notification of the case being placed on the docket to the person accused of committing the offence.

Article 56 *(Time limit for investigating unlawful administrative acts in preliminary investigations)*

1. The public prosecutor proceeds to investigate the unlawful administrative act subject to the same time limits required for the preliminary investigations concerning the offence relating to the unlawful act.
2. The time limit for investigating the unlawful administrative act of which the body is accused runs from the date on which the annotation, provided for under article 55, is made.

Article 57 *(Notice of indictment)*

1. The notice of indictment served on the body must contain instructions to declare or otherwise elect legal domicile for the serving of process in addition to a warning to the effect that in order to take part in the proceedings it must file a declaration as per article 39, paragraph 2.

Article 58 *Dismissal of charges*

1. If the public prosecutor does not charge the body in respect of an unlawful administrative act in accordance with article 59, the public prosecutor issues a decree containing reasons for dismissing charges, notifying the appeal court prosecutor. The appeal court prosecutor may conduct necessary investigations and should he believe that conditions have been met, charges the body with administrative breaches arising from the offence within six months of the date on which notice is given.

Article 59
(Charges in respect of unlawful administrative acts)

1. When the public prosecutor does not order that the case be dismissed, he brings charges against the body for the unlawful administrative act relating to the offence. The charges relating to the unlawful act are contained in one of the documents indicated by article 405, paragraph 1 of the criminal procedure code.
2. The charges contain all elements identifying the body, clear and accurate formulation of the fact that may entail the enforcement of administrative penalties, with an indication of the offence relating to the unlawful act and the associated articles of law and sources of evidence.

Article 60
(Expiry of charges)

1. It is not possible to proceed with charges as per article 59 when the limitation period for the offence relating to the unlawful administrative acts committed by the body has expired.

Article 61
(Decisions handed down in the preliminary hearing)

1. The preliminary hearing judge hands down a judgement that there is no case to answer when the administrative penalty is extinguished or inadmissible, in other words when there is no unlawful act or when the elements placed on record are insufficient, contradictory or in any case not fit to demonstrate the body's liability during court proceedings. The provisions of article 426 of the criminal procedure code are applied.
2. Following the preliminary hearing, the order handing down the decision in respect of the body, contains, failing which it is null and void, the charges against the body on the grounds of the unlawful administrative act relating to the offence, stating clearly and accurately the fact that may entail the enforcement of administrative penalties, with an indication of the offence relating to the unlawful act and the associated articles of law and sources of evidence as well as elements identifying the body.

SECTION VI
SPECIAL PROCEEDINGS

Article 62
(Fast track proceedings)

1. For fast track proceedings, the provisions of title 1 of the sixth book of the criminal procedure code are complied with, to the extent that they are applicable.
2. Should there be no preliminary hearing, where appropriate, the provisions of articles 555, paragraph 257 and 558, paragraph 8 apply.
3. The reduction referred to in article 442, paragraph 2 of the criminal procedure code is made according to the duration of the disqualification period and according to the amount of the fine.
4. In any case, fast track proceedings are not allowed when, with regard to the illegal administrative act, the application of a disqualification measure is final.

Article 63
(Application of the penalty subject to request)

1. Imposing the penalty on the body by request is admissible if the proceedings against the defendant are settled or otherwise if they may be settled in accordance with article 444 of the criminal procedure code as well as in all cases in which only a fine is contemplated for the unlawful administrative act. The provisions of title II of the sixth book of the criminal procedure code are complied with, to the extent that they are applicable.
2. Where the penalty by request is applicable, the reduction referred to in article 444, paragraph 1 of the criminal procedure code is made according to the duration of the disqualification period and according to the amount of the fine.
3. If the court maintains that disqualification must be imposed, being a final decision, it dismisses the request.

Article 64
(Proceedings by order)

1. When the public prosecutor maintains that only a fine must be imposed, he may file a motion, having provided the grounds, for the issue of a court order imposing the fine, indicating the amount, with the judge for preliminary investigations, within six months of the date on which the unlawful administrative act is entered in the register as per article 55 and subject to forwarding the file.
2. The public prosecutor may file for application of a fine which may be reduced by up to one half compared to the minimum amount applicable.
3. When the judge dismisses the motion, if it is not necessary to hand down a judgement excluding the body's liability, the judge returns the documents to the public prosecutor.
4. The provisions of title V of the sixth book and article 557 of the criminal procedure code are complied with, to the extent that they are compatible.

SECTION VII
PROCEEDINGS

Article 65

(Time limit for making good the consequences of the offence)

1. Prior to initiating the court of first instance proceedings the court may order that the trial be suspended if the body files a motion to perform the activities referred to in article 17, demonstrating that it has been unable to perform them previously. In such case, if the court wishes to uphold the motion, it sets a sum of money by way of security deposit. The provisions of article 49 are complied with.

Article 66

(Judgement excluding liability on the part of a body)

1. If the unlawful administrative act with which the body is charged has not been committed, the court hands down a judgement, providing the grounds in the operative part of the judgement. The court proceeds in the same manner when evidence of the unlawful administrative act is lacking, is insufficient or contradictory.

Article 67

(Dismissal of charges)

1. The court dismisses the charges in those cases contemplated by article 60 and when the limitation period has expired.

Article 68

(Decisions on interim measures)

1. When the court hands down one of the judgements as per articles 66 and 67, it declares that any interim measures are terminated.

Article 69

(Conviction)

1. If the body is liable for the alleged unlawful administrative act, the court applies the penalties laid down by law and orders the body to pay court costs.
2. In the event of disqualification, the judgement must always indicate the activity or the structures covered by the penalty.

Article 70

(Judgement when there are events modifying the body)

1. In the event of reorganisation, merger or demerger on the part of the body found liable, the court acknowledges in the operative part of the judgement that the judgement has been handed down

against bodies coming into being through reorganisation or merger or otherwise benefiting from demerger, indicating the body which was originally liable.

2. The judgement handed down against the body which was originally liable is nevertheless also effective against bodies indicated in paragraph 1.

SECTION VIII APPEALS

Article 71

(Appealing judgements relating to a body's administrative liability)

1. The body may appeal against the judgement applying administrative penalties other than disqualification in those cases and in the manner established for a party accused of an offence relating to the unlawful act.

2. The body may always appeal against the judgement applying one or more disqualification measures, even if this is not permissible for a party accused of an offence relating to the unlawful act.

3. The public prosecutor may appeal against the judgement concerning an unlawful administrative act in the same manner allowed for offences relating to the administrative act.

Article 72

(Extension of appeals)

1. Appeals filed by both the party accused of the offence relating to the unlawful administrative act and by the body, benefit, respectively, the body and the accused, provided such appeals are not grounded solely on personal reasons.

Article 73

(Review of judgements)

1. To the extent that they are compatible, the provisions of title IV of the ninth book of the criminal procedure code apply to judgements handed down against the body, with the exception of articles 643, 644, 645, 646 and 647.

SECTION IX ENFORCEMENT

Article 74
(Enforcement court)

1. The judge indicated in article 665 of the criminal procedure code is competent with regard to enforcement of administrative penalties relating to an offence.
2. The judge indicated in paragraph 1 is also competent with regard to decisions relating to:
 - a) termination of enforcement of penalties in those cases provided for by article 3;
 - b) termination of enforcement in the event of extinction of the offence on the grounds of an amnesty;
 - c) determining the applicable administrative penalties in those cases provided for by article 21, paragraphs 1 and 2;
 - d) confiscation and return of seized articles.
3. In enforcement proceedings the provisions of article 666 of the criminal procedure code are complied with, to the extent that they are applicable. In those cases provided for by paragraph 2, subparagraphs b) and d), the provisions of article 667, paragraph 4 of the criminal procedure code are complied with.
4. When a body is disqualified from exercising an activity, at the request of the body, the judge may authorise routine management not entailing continuation of the prohibited activity. The provisions of article 667, paragraph 4, of the criminal procedure code are complied with.

Article 75
(Enforcement of fines)

(Repealed by article 299 of Presidential Decree n° 115 of 30 May 2002)

Article 76
(Publication of the conviction)

1. Publication of the conviction is carried out at the expense of the body against which a penalty is imposed. The provisions of article 694, paragraphs 2, 3 and 4 of the criminal procedure code are complied with.

Article 77
(Enforcement of disqualification measures)

1. The extract from the judgement ordering disqualification is served on the body by the public prosecutor.
2. For purposes of determining the date on which the disqualification period commences, it is necessary to take into consideration the date on which notice is served.

Article 78
(Conversion of disqualification measures)

1. Any body which is late in taking action as per article 17 may apply to have the disqualification measure converted into a fine, within 20 days of the date on which the extract from the judgement is served.
2. The application is filed with the enforcement court and must contain all documentation certifying completion of mandatory actions as per article 17.
3. Within ten days of the date on which the application is filed, the court schedules a hearing in chambers and notifies the parties and the defence counsel. If the application appears manifestly groundless, the court may suspend enforcement of the penalty. Suspension is ordered by means of a revocable court order, producing reasons for the decision.
4. If the court upholds the application, by means of a court order, it converts the disqualification penalty, determining the amount of the fine into a sum no lower than the sum already applied in the judgement and no greater than two times this amount. In determining the amount of the sum the court takes into consideration the severity of the unlawful act as stated in the judgement and also takes into consideration the reasons giving rise to late fulfilment of the conditions as per article 17.

Article 79

(Appointment of the temporary receiver and confiscation of profits)

1. When it is necessary to enforce the judgement ordering continuation of the body's activity pursuant to article 15, the public prosecutor files a motion for appointment of the temporary receiver with the enforcement court, which attends to the matter without particular formalities.
2. Every three months the receiver reports to the execution court and to the public prosecutor as to progress of operations and, once he has ceased to hold office sends a report on activities carried out to the court, in which he reports on operations, also indicating the amount of profit to be confiscated and procedures whereby the organisational models have been implemented.
3. The court decides on confiscation in the manner laid down by article 667, paragraph 4 of the criminal procedure code. Costs relating to the activity performed by the receiver and remuneration are borne by the body.

Article 80

(National register of administrative penalties)

(Repealed by article 52, paragraph 1 of Presidential Decree n° 313 of 14 November 2002)

Article 81

(Register certificates)

(Repealed by article 52, paragraph 1 of Presidential Decree n° 313 of 14 November 2002)

Article 82

(Matters concerning registration and certificates)

(Repealed by article 52, paragraph 1 of Presidential Decree n° 313 of 14 November 2002)

CHAPTER IV *IMPLEMENTATION AND COORDINATION ORDERS*

Article 83 *(Concurrence of penalties)*

1. Only disqualifying measures set forth in this legislative decree are applied against the body even when various provisions provide for enforcement of identical, analogous administrative penalties against the body, as a consequence of a conviction for the offence.
2. If, as a consequence of the unlawful act, an administrative penalty whose content is identical or analogous to the disqualifying penalty contemplated in this legislative decree has already been applied, the duration of the penalty which has already been incurred is calculated in order to determine the duration of the administrative penalty arising as a consequence of the offence.

Article 84 *(Notification to supervisory and oversight authorities)*

1. The decision applying interim disqualifying measures and the final judgement handing down a conviction are notified, by the clerk of the court's office issuing them, to the authorities exercising supervision and oversight over the body.

Article 85 *(Regulatory provisions)*

1. By means of regulations issued in accordance with article 17, paragraph 3, of law n. 400 of 23 of August 1988, within 60 days of the date on which this legislative decree is published, the Minister of Justice adopts the regulatory provisions relating to the proceedings for investigating unlawful administrative acts concerning:
 - a) procedures for creating and keeping court office files;
 - b) repealed by article 52, paragraph 1 of Presidential Decree n° 313 of 14 November 2002);
 - c) the other activities necessary to implement this legislative decree.

2. The opinion of the Council of State on the regulations provided for by paragraph 1 is made within 30 days of the date on which it is requested.