

# CONSTITUTION OF THE PORTUGUESE REPUBLIC

## SEVENTH REVISION [2005]

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## PREAMBLE

On the 25th of April 1974 the Armed Forces Movement crowned the long resistance and reflected the deepest feelings of the Portuguese people by overthrowing the fascist regime.

Freeing Portugal from dictatorship, oppression and colonialism represented a revolutionary change and the beginning of an historic turning point for Portuguese society.

The Revolution restored their fundamental rights and freedoms to the people of Portugal. In the exercise of those rights and freedoms, the people's legitimate representatives are gathered to draw up a Constitution that matches the country's aspirations.

The Constituent Assembly affirms the Portuguese people's decision to defend national independence, guarantee citizens' fundamental rights, establish the basic principles of democracy, ensure the primacy of a democratic state based on the rule of law and open up a path towards a socialist society, with respect for the will of the Portuguese people and with a view to the construction of a country that is freer, more just and more fraternal.

Meeting in plenary sitting on 2 April 1976, the Constituent Assembly does hereby pass and decree the following Constitution of the Portuguese Republic:

### Fundamental principles

#### Article 1

(Portuguese Republic)

Portugal is a sovereign Republic, based on the dignity of the human person and the will of the people and committed to building a free, just and solidary society.

#### Article 2

(Democratic state based on the rule of law)

The Portuguese Republic is a democratic state based on the rule of law, the sovereignty of the people, plural democratic expression and political organisation, respect for and the guarantee of the effective implementation of the fundamental rights and freedoms, and the separation and interdependence of powers, with a view to achieving economic, social and cultural democracy and deepening participatory democracy.

#### Article 3

(Sovereignty and legality)

1. Sovereignty is single and indivisible and lies with the people, who exercise it in the forms provided for in the Constitution.

2. The state is subject to the Constitution and is based on democratic legality.

3. The validity of laws and other acts of the state, the autonomous regions, local government and any other public entities is dependent on their conformity with the Constitution.

#### Article 4

(Portuguese citizenship)

All persons whom the law or an international convention considers to be Portuguese citizens are such citizens.

#### Article 5

(Territory)

1. Portugal comprises the territory on the European mainland that is historically defined as Portuguese, and the Azores and Madeira archipelagos.
2. The law shall define the extent and limit of Portugal's territorial waters, its exclusive economic zone and its rights to the adjacent seabeds.
3. Without prejudice to the rectification of borders, the state shall not dispose of any part of Portuguese territory or of the sovereign rights that it exercises thereover.

#### Article 6

(Unitary state)

1. The state is unitary and the way in which it is organised and functions shall respect the autonomous island system of self-government and the principles of subsidiarity, the autonomy of local authorities and the democratic decentralisation of the Public Administration.
2. The Azores and Madeira archipelagos are autonomous regions with their own political and administrative statutes and self-government institutions.

#### Article 7

(International relations)

1. In its international relations Portugal is governed by the principles of national independence, respect for human rights, the rights of peoples, equality between states, the peaceful settlement of international conflicts, non-interference in the internal affairs of other states and cooperation with all other peoples with a view to the emancipation and progress of mankind.
2. Portugal advocates the abolition of imperialism, colonialism and any other forms of aggression, dominion and exploitation in the relations between peoples, as well as simultaneous and controlled general disarmament, the dissolution of the political-military blocs and the establishment of a collective security system, with a view to the creation of an international order that is capable of ensuring peace and justice in the relations between peoples.
3. Portugal recognises peoples' rights to self-determination and independence and to development, as well as the right of insurrection against all forms of oppression.
4. Portugal maintains privileged ties of friendship and cooperation with Portuguese-speaking countries.

5. Portugal is committed to reinforcing the European identity and to strengthening the European states' actions in favour of democracy, peace, economic progress and justice in the relations between peoples.

6. Subject to reciprocity and with respect for the fundamental principles of a democratic state based on the rule of law and for the principle of subsidiarity, and with a view to the achievement of the economic, social and territorial cohesion of an area of freedom, security and justice and the definition and implementation of a common external, security and defence policy, Portugal may agree to the joint exercise, in cooperation or by the Union's institutions, of the powers needed to construct and deepen the European Union.

7. With a view to achieving an international justice that promotes respect for the rights of the human person and of peoples, and subject to the provisions governing complementarity and the other terms laid down in the Rome Statute, Portugal may accept the jurisdiction of the International Criminal Court.

## Article 8

(International law)

1. The norms and principles of general or common international law form an integral part of Portuguese law.

2. The norms contained in duly ratified or approved international conventions come into force in Portuguese internal law once they have been officially published, and remain so for as long as they are internationally binding on the Portuguese state.

3. The norms issued by the competent organs of international organisations to which Portugal belongs come directly into force in Portuguese internal law, on condition that this is laid down in the respective constituent treaties.

4. The provisions of the treaties that govern the European Union and the norms issued by its institutions in the exercise of their respective competences are applicable in Portuguese internal law in accordance with Union law and with respect for the fundamental principles of a democratic state based on the rule of law.

## Article 9

(Fundamental tasks of the state)

The fundamental tasks of the state are:

a) To guarantee national independence and create the political, economic, social and cultural conditions that promote it;

b) To guarantee the fundamental rights and freedoms and respect for the principles of a democratic state based on the rule of law;

c) To defend political democracy and safeguard and encourage citizens' democratic participation in the resolution of national problems;

d) To promote the people's well-being and quality of life and real equality between the Portuguese, as well as the effective implementation of economic, social, cultural and environmental rights by means of the transformation and modernisation of economic and social structures;

e) To protect and enhance the Portuguese people's cultural heritage, defend nature and the environment, preserve natural resources and ensure correct town and country planning;

f) To ensure that the Portuguese language is taught and constantly valued, defend its use and promote its international dissemination;

g) To promote the harmonious development of the whole of Portuguese territory, with particular regard to the ultraperipheral nature of the Azores and Madeira archipelagos;

h) To promote equality between men and women.

#### Article 10

(Universal suffrage and political parties)

1. The people exercise political power by means of universal, equal, direct, secret and periodic suffrage, referendum and the other forms provided for in the Constitution.

2. Political parties exist in order to contribute to the organisation and expression of the will of the people, with respect for the principles of national independence, the unity of the state and political democracy.

#### Article 11

(National symbols and official language)

1. The National Flag, which is the symbol of the sovereignty of the Republic and of Portugal's independence, unity and integrity, is that adopted by the Republic formed by the Revolution of the 5<sup>th</sup> of October 1910.

2. The national anthem is *A Portuguesa*.

3. The official language is Portuguese.

### PART I

Fundamental rights and duties

#### TITLE I

General principles

#### Article 12

(Principle of universality)

1. Every citizen enjoys the rights and is subject to the duties enshrined in the Constitution.

2. Legal persons enjoy the rights and are subject to the duties that are compatible with their nature.

#### Article 13

(Principle of equality)

1. All citizens possess the same social dignity and are equal before the law.

2. No one may be privileged, favoured, prejudiced, deprived of any right or exempted from any duty for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation.

## Article 14

(Portuguese abroad)

Portuguese citizens who find themselves or who reside abroad enjoy the state's protection in the exercise of the rights and are subject to the duties that are not incompatible with their absence from the country.

## Article 15

(Foreigners, stateless persons, European citizens)

1. Foreigners and stateless persons who find themselves or who reside in Portugal enjoy the same rights and are subject to the same duties as Portuguese citizens.
2. Political rights, the exercise of public functions that are not predominantly technical in nature, and the rights and duties that the Constitution and the law reserve exclusively to Portuguese citizens are excepted from the provisions of the previous paragraph.
3. Save for access to appointment to the offices of President of the Republic, President of the Assembleia da República, Prime Minister and President of any of the supreme courts, and for service in the armed forces and the diplomatic corps, rights that are not otherwise granted to foreigners are accorded, as laid down by law and under reciprocal terms, to the citizens of Portuguese-speaking states who reside permanently in Portugal.
4. Under reciprocal terms, the law may accord foreigners who reside in Portugal the eligibility to vote for and stand for election as officeholders of local authority organs.
5. Under reciprocal terms, the law may also accord citizens of European Union Member States who reside in Portugal the eligibility to vote for and stand for election as Members of the European Parliament.

## Article 16

(Scope and interpretation of fundamental rights)

1. The fundamental rights enshrined in the Constitution shall not exclude any others set out in applicable international laws and legal rules.
2. The constitutional and legal precepts concerning fundamental rights must be interpreted and completed in harmony with the Universal Declaration of Human Rights.

## Article 17

(Regime governing rights, freedoms and guarantees)

The regime governing rights, freedoms and guarantees applies to those set out in Title II and to fundamental rights of an analogous nature.

## Article 18

(Legal force)

1. The constitutional precepts with regard to rights, freedoms and guarantees are directly applicable and are binding on public and private entities.
2. The law may only restrict rights, freedoms and guarantees in cases expressly provided for in the Constitution, and such restrictions must be limited to those needed to safeguard other constitutionally protected rights and interests.
3. Laws that restrict rights, freedoms and guarantees must have a general and abstract nature and may not have a retroactive effect or reduce the extent or scope of the essential content of the constitutional precepts.

Article 19

(Suspension of the exercise of rights)

1. Entities that exercise sovereignty may not jointly or separately suspend the exercise of the rights, freedoms and guarantees, save in the case of a state of siege or a state of emergency declared in the form provided for in the Constitution.
2. A state of siege or a state of emergency may only be declared in part or all of Portuguese territory in cases of actual or imminent aggression by foreign forces, a serious threat to or disturbance of democratic constitutional order, or public disaster.
3. A state of emergency is declared when the preconditions referred to in the previous paragraph are less serious, and may only cause the suspension of some of the rights, freedoms and guarantees that are capable of being suspended.
4. Both the choice between a state of siege and a state of emergency and the declaration and implementation thereof must respect the principle of proportionality and limit themselves, particularly as regards their extent and duration and the means employed, to that which is strictly necessary for the prompt restoration of constitutional normality.
5. Declarations of a state of siege or a state of emergency shall set out adequate grounds therefore and specify the rights, freedoms and guarantees whose exercise is to be suspended. Without prejudice to the possibility of renewals subject to the same limits, neither state may last for more than fifteen days, or, when it results from a declaration of war, for more than the duration laid down by law.
6. In no case may a declaration of a state of siege or a state of emergency affect the rights to life, personal integrity, personal identity, civil capacity and citizenship, the non-retroactivity of the criminal law, accused persons' right to a defence, or the freedom of conscience and religion.
7. Declarations of a state of siege or a state of emergency may only alter constitutional normality in accordance with the provisions of the Constitution and the law. In particular, they may not affect the application of the constitutional rules concerning the competences and modus operandi of the entities that exercise sovereignty or of the self-government organs of the autonomous regions, or the rights and immunities of the respective officeholders.
8. Declarations of a state of siege or a state of emergency grant the public authorities the competence to take the steps that are necessary and appropriate for the prompt restoration of constitutional normality.

Article 20

(Access to law and effective judicial protection)

1. Everyone is guaranteed access to the law and the courts in order to defend those of his rights and interests that are protected by law, and justice may not be denied to anyone due to lack of sufficient financial means.
2. Subject to the terms of the law, everyone has the right to legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority.
3. The law shall define and ensure adequate protection of the secrecy of legal proceedings.
4. Everyone has the right to secure a decision in any suit in which he is intervening, within a reasonable time limit and by means of fair process.
5. For the purpose of defending the personal rights, freedoms and guarantees and in such a way as to secure effective and timely judicial protection against threats thereto or breaches thereof, the law shall ensure citizens judicial proceedings that are characterised by their swiftness and by the attachment of priority to them.

#### Article 21

(Right of resistance)

Everyone has the right to resist any order that infringes their rights, freedoms or guarantees and, when it is not possible to resort to the public authorities, to use force to repel any aggression.

#### Article 22

(Liability of public entities)

Jointly with the officeholders of their entities and organs and their staff and agents, the state and other public entities are civilly liable for actions or omissions that are committed in or because of the exercise of their functions and result in a breach of rights, freedoms or guarantees or in a loss to others.

#### Article 23

(Ombudsman)

1. Citizens may submit complaints against actions or omissions by the public authorities to the Ombudsman, who shall assess them without the power to take decisions and shall send the competent entities and organs the recommendations needed to prevent or make good any injustices.
2. The Ombudsman's work is independent of any non-judicial or judicial remedies provided for in the Constitution or the law.
3. The Ombudsman is an independent entity and the Assembleia da República shall appoint him for the period laid down by law.
4. The entities, organs and agents of the Public Administration shall cooperate with the Ombudsman in the fulfilment of his mission.

### TITLE II

Rights, freedoms and guarantees

## CHAPTER I

### Personal rights, freedoms and guarantees

#### Article 24

##### (Right to life)

1. Human life is inviolable.
2. In no case shall there be the death penalty.

#### Article 25

##### (Right to personal integrity)

1. Every person's moral and physical integrity is inviolable.
2. No one may be subjected to torture or to cruel, degrading or inhuman treatment or punishment.

#### Article 26

##### (Other personal rights)

1. Everyone is accorded the rights to personal identity, to the development of personality, to civil capacity, to citizenship, to a good name and reputation, to their image, to speak out, to protect the privacy of their personal and family life, and to legal protection against any form of discrimination.
2. The law shall lay down effective guarantees against the improper procurement and misuse of information concerning persons and families and its procurement or use contrary to human dignity.
3. The law shall guarantee the personal dignity and genetic identity of the human person, particularly in the creation, development and use of technologies and in scientific experimentation.
4. Deprivation of citizenship and restrictions on civil capacity may only occur in the cases and under the terms that are provided for by law, and may not be based on political motives.

#### Article 27

##### (Right to freedom and security)

1. Everyone has the right to freedom and security.
2. No one may be wholly or partially deprived of their freedom, except as a consequence of a judicial conviction and sentence imposed for the practice of an act that is legally punishable by a prison term or the judicial imposition of a security measure.
3. The following cases of deprivation of freedom for the period and under the conditions laid down by law are exceptions to this principle:
  - a) Detention *in flagrante delicto*;



- b) Detention or remand in custody due to strong indications of the wilful commission of a crime that is punishable by imprisonment for a maximum term of more than three years;
  - c) The imprisonment or detention of, or the imposition of any other coercive measure subject to judicial control on, a person who improperly entered or improperly remains in Portuguese territory, or who is currently the object of extradition or deportation proceedings;
  - d) The disciplinary imprisonment of military personnel, subject to the guarantee of appeal to the competent court;
  - e) The subjection of a minor to measures intended to protect, assist or educate him in a suitable establishment, when ordered by the competent court of law;
  - f) Detention by judicial decision for disobeying a court decision or to ensure appearance before a competent judicial authority;
  - g) Detention of suspects for identification purposes, in the cases that are and for the time that is strictly necessary;
  - h) Committal of a person suffering from a psychic anomaly to an appropriate therapeutic establishment, when ordered or confirmed by a competent judicial authority.
4. Every person who is deprived of his freedom must immediately be informed in an understandable manner of the reasons for his arrest, imprisonment or detention and of his rights.
  5. Deprivation of freedom contrary to the provisions of the Constitution or the law places the state under a duty to compensate the aggrieved person in accordance with the law.

## Article 28

### (Remand in custody)

1. Within a time limit of at most forty-eight hours, all detentions shall be submitted to judicial consideration with a view to either the detainee's release or the imposition of an appropriate coercive measure. The judge must become acquainted with the reasons that caused the detention and must inform the detainee thereof, question him and give him the opportunity to present a defence.
2. Remand in custody is exceptional in nature and shall not be ordered or maintained whenever it is possible to grant bail or apply another, more favourable measure provided for by law.
3. The judicial decision to institute or maintain a measure entailing the deprivation of freedom shall immediately be communicated to the relative or person of trust nominated by the detainee.
4. Remand in custody is subject to the time limits laid down by law.

## Article 29

### (Application of criminal law)

1. No one may be sentenced under the criminal law unless the action or omission in question is punishable under a pre-existing law, nor may any person be the object of a security measure unless the prerequisites therefore are laid down by a pre-existing law.
2. The provisions of the previous paragraph do not preclude the punishment up to the limits laid down by internal Portuguese law of an action or omission which was deemed criminal under the general principles of international law that were commonly recognised at the moment of its commission.

3. No sentence or security measure may be applied unless it is expressly sanctioned by a pre-existing law.
4. No one may be the object of a sentence or security measure that is more severe than those provided for at the moment of the conduct in question, or at that at which the prerequisites for the application of such a measure were fulfilled, while criminal laws whose content is more favourable to the accused person shall be applied retroactively.
5. No one may be tried more than once for commission of the same crime.
6. Citizens who are unjustly convicted have the right to the review of their sentences and to compensation for the damages they have suffered, as laid down by law.

#### Article 30

(Limits on sentences and security measures)

1. No sentence or security measure that deprives or restricts freedom may be perpetual in nature or have an unlimited or undefined duration.
2. In cases of danger based on a serious psychic abnormality in which therapy in an open environment is impossible, security measures that deprive or restrict freedom may be successively extended for as long as the psychic state in question is maintained, but always by judicial decision.
3. Criminal liability is not transferable.
4. No sentence shall automatically involve the loss of any civil, professional or political right.
5. Convicted persons who are the object of a sentence or security measure that deprives them of their freedom retain their fundamental rights, save for the limitations that are inherent to the purpose of their convictions and to the specific requirements imposed by the execution of the respective sentences.

#### Article 31

(Habeas corpus)

1. Habeas corpus is available to counter misuse of power in the form of illegal arrest, imprisonment or detention. Application for it must be made to the competent court.
2. Application for a habeas corpus order may be made by the person so arrested, imprisoned or detained, or by any citizen in possession of his political rights.
3. Within a time limit of eight days of an application for habeas corpus, the judge shall rule thereon in a hearing that shall be subject to the adversarial principle.

#### Article 32

(Safeguards in criminal procedure)

1. Criminal procedure shall ensure all the safeguards of the defence, including the right to appeal.
2. Every accused person is presumed innocent until the sentence in which he was convicted has transited in rem judicatam, and must be tried as quickly as is compatible with the safeguards of the defence.

3. Accused persons have the right to choose counsel and to be assisted by him in relation to every procedural act. The law shall specify those cases and phases of procedure in which the assistance of a lawyer is mandatory.
4. All committal proceedings shall be the competence of a judge, who may, as laid down by law, delegate the practice of such committal-related acts as do not directly concern fundamental rights to other entities.
5. Criminal procedure shall possess an accusatorial structure, and trial hearings and the committal-related acts that are required by law shall be subject to the adversarial principle.
6. The law shall define the cases in which, subject to the safeguarding of the rights of the defence, the presence of the accused person at procedural acts, including trial hearings, may be dispensed with.
7. Victims have the right to intervene in the proceedings, as laid down by law.
8. All evidence obtained by torture, coercion, infringement of personal physical or moral integrity, or improper intrusion into personal life, the home, correspondence or telecommunications is null and void.
9. No case may be withdrawn from a court that was competent under a pre-existing law.
10. Accused persons in proceedings concerning administrative offences or in any proceedings in which sanctions may be imposed are assured the right to be heard and to a defence.

#### Article 33

(Deportation, extradition and right of asylum)

1. The deportation of Portuguese citizens from Portuguese territory is not permitted.
2. Deportation of anyone who properly entered or is properly remaining in Portuguese territory, has been granted a residence permit or has submitted a request for asylum that has not been refused may only be ordered by a judicial authority. The law shall assure expedite forms of decision in such cases.
3. The extradition of Portuguese citizens from Portuguese territory is only permissible where an international convention has established reciprocal extradition arrangements, in cases of terrorism or international organised crime, and on condition that the applicant state's legal system enshrines guarantees of just and fair proceedings.
4. Extradition for crimes that are punishable under the applicant state's law by a sentence or security measure which deprives or restricts freedom in perpetuity or for an undefined duration, is only permissible if the applicant state is a party to an international convention in this domain to which Portugal is bound, and offers guarantees that such a sentence or security measure will not be applied or executed.
5. The provisions of the previous paragraphs do not prejudice the application of the norms governing judicial cooperation in the criminal field that are laid down within the scope of the European Union.
6. The extradition or handing over of a person under any circumstances for political reasons, or for crimes which are punishable under the applicant state's law by death or by any other sentence that results in irreversible damage to physical integrity, is not permitted.
7. Extradition may only be ordered by a judicial authority.
8. The right of asylum is guaranteed to foreigners and stateless persons who are the object, or are under grave threat, of persecution as a result of their activities in favour of democracy, social and national liberation, peace among peoples, freedom or the rights of the human person.
9. The law shall define the status of political refugee.

#### Article 34

(Inviolability of home and correspondence)

1. Domiciles and the secrecy of correspondence and other means of private communication are inviolable.
2. Entry into a citizen's domicile against his will may only be ordered by the competent judicial authority and then only in the cases and in compliance with the forms laid down by law.
3. No one may enter any person's domicile at night without his consent, save in situations of *flagrante delicto*, or with judicial authorisation in cases of especially violent or highly organised crime including terrorism and trafficking in persons, arms or narcotics, as laid down by law.
4. The public authorities are prohibited from interfering in any way with correspondence, telecommunications or other means of communication, save in the cases in which the law so provides in matters related to criminal procedure.

#### Article 35

(Use of information technology)

1. Every citizen has the right of access to all computerised data that concern him, which he may require to be corrected and updated, and the right to be informed of the purpose for which they are intended, as laid down by law.
2. The law shall define the concept of personal data, together with the terms and conditions applicable to its automatised treatment and its linkage, transmission and use, and shall guarantee its protection, particularly by means of an independent administrative entity.
3. Information technology may not be used to treat data concerning philosophical or political convictions, party or trade union affiliations, religious faith, private life or ethnic origins, save with the express consent of the data subject, or with an authorisation provided for by law and with guarantees of non-discrimination, or for the purpose of processing statistical data that are not individually identifiable.
4. Third-party access to personal data is prohibited, save in exceptional cases provided for by law.
5. The allocation of a single national number to any citizen is prohibited.
6. Everyone is guaranteed free access to public-use information technology networks. The law shall define the regime governing cross-border data flows, and the appropriate means for protecting both personal data and other data whose safeguarding is justified in the national interest.
7. Personal data contained in manual files enjoy the same protection as that provided for in the previous paragraphs, as laid down by law.

#### Article 36

(Family, marriage and filiation)

1. Everyone has the right to form a family and to marry under conditions of full equality.
2. The law shall regulate the requisites for and the effects of marriage and its dissolution by death or divorce, regardless of the form in which it was entered into.

3. Spouses have equal rights and duties in relation to their civil and political capacity and to the maintenance and education of their children.
4. Children born outside wedlock may not be the object of any discrimination for that reason, and neither the law, nor official departments or services may employ discriminatory terms in relation to filiation.
5. Parents have the right and the duty to educate and maintain their children.
6. Children may not be separated from their parents, save when the latter do not fulfil their fundamental duties towards them, and then always by judicial decision.
7. Adoption shall be regulated and protected in accordance with the law, which must lay down swift forms for completion of the respective procedural requirements.

#### Article 37

(Freedom of expression and information)

1. Everyone has the right to freely express and divulge his thoughts in words, images or by any other means, as well as the right to inform others, inform himself and be informed without hindrance or discrimination.
2. Exercise of these rights may not be hindered or limited by any type or form of censorship.
3. Infractions committed in the exercise of these rights are subject to the general principles of the criminal law or the law governing administrative offences, and the competence to consider them shall pertain to the courts of law or an independent administrative entity respectively, as laid down by law.
4. Every natural and legal person shall be equally and effectively ensured the right of reply and to make corrections, as well as the right to compensation for damages suffered.

#### Article 38

(Freedom of the press and the media)

1. Freedom of the press is guaranteed.
2. Freedom of the press implies:
  - a) Freedom of expression and creativity on the part of journalists and other staff, as well as journalists' freedom to take part in deciding the editorial policy of their media entity, save when the latter is doctrinal or religious in nature;
  - b) That journalists have the right, as laid down by law, of access to sources of information, and to the protection of professional independence and secrecy, as well as the right to elect editorial boards;
  - c) The right to found newspapers and any other publications, without the need for any prior administrative authorisation, bond or qualification.
3. In generic terms, the law shall ensure that the names of the owners of media entities and the means by which those entities are financed are publicised.
4. The state shall ensure the freedom and independence of media entities from political power and economic power by imposing the principle of specialisation on enterprises that own general information

media entities, treating and supporting them in a non-discriminatory manner and preventing their concentration, particularly by means of multiple or interlocking interests.

5. The state shall ensure the existence and operation of a public radio and television service.

6. The structure and modus operandi of public sector media must safeguard their independence from the Government, the Administration and the other public authorities, and must ensure that all different currents of opinion are able to express themselves and confront one another.

7. Radio and television broadcasting stations may only operate with licences that are granted under competitive public selection processes, as laid down by law.

## Article 39

(Regulation of the media)

1. An independent administrative entity shall be responsible for ensuring the following in the media:

a) The right to information and the freedom of the press;

b) The non-concentration of ownership of the media;

c) Independence from political power and economic power; d)

Respect for the personal rights, freedoms and guarantees; e)

Respect for the norms that regulate the work of the media;

f) That all different currents of opinion are able to express themselves and confront one another;

g) Exercise of the rights to broadcasting time, of reply and of political response.

2. The law shall define the composition, competences, organisation and modus operandi of the entity referred to in the previous paragraph, together with the statute governing its members, who shall be appointed by the Assembleia da República and co-opted by those so appointed.

## Article 40

(Rights to broadcasting time, of reply and of political response)

1. Political parties, trade union and professional organisations and organisations that represent economic activities, and other social organisations with a national scope have the right to broadcasting time on the public radio and television service, in accordance with their prominence and representativity and with objective criteria that shall be defined by law.

2. Political parties that are represented in the Assembleia da República and do not form part of the Government have the right to broadcasting time on the public radio and television service, as laid down by law, which shall be apportioned in accordance with each party's proportional share of the seats in the Assembly, together with the right to reply or respond politically to the Government's political statements. These times shall be of the same duration and prominence as those given over to the Government's broadcasts and statements. Parties that are represented in the Legislative Assembly of an autonomous region enjoy the same rights within the ambit of the region in question.

3. During electoral periods and as laid down by law, those competing for election have the right to regular and equitable broadcasting time on radio and television stations with a national or regional scope.

#### Article 41

(Freedom of conscience, of religion and of form of worship)

1. The freedom of conscience, of religion and of form of worship is inviolable.
2. No one may be persecuted, deprived of rights or exempted from civic obligations or duties because of his convictions or religious observance.
3. No authority may question anyone in relation to his convictions or religious observance, save in order to gather statistical data that cannot be individually identified, nor may anyone be prejudiced in any way for refusing to answer.
4. Churches and other religious communities are separate from the state and are free to organise themselves and to exercise their functions and form of worship.
5. The freedom to teach any religion within the ambit of the religious belief in question and to use the religion's own media for the pursuit of its activities is guaranteed.
6. The right to be a conscientious objector, as laid down by law, is guaranteed.

#### Article 42

(Freedom of cultural creation)

1. There shall be freedom of intellectual, artistic and scientific creation.
2. This freedom comprises the right to invent, produce and divulge scientific, literary and artistic work and includes the protection of copyright by law.

#### Article 43

(Freedom to learn and to teach)

1. The freedom to learn and to teach is guaranteed.
2. The state may not programme education and culture in accordance with any philosophical, aesthetic, political, ideological or religious directives.
3. Public education shall not be linked to a religious belief.
4. The right to create private and cooperative schools is guaranteed.

#### Article 44

(Right to travel and to emigrate)

1. Every citizen is guaranteed the right to travel and settle freely in any part of Portuguese territory.
2. Every citizen is guaranteed the right to emigrate or to leave Portuguese territory and the right to return thereto.

## Article 45

(Right to meet and to demonstrate)

1. Citizens have the right to meet peacefully and without arms, even in places that are open to the public, without the need for any authorisation.
2. All citizens are accorded the right to demonstrate.

## Article 46

(Freedom of association)

1. Citizens have the right to form associations freely and without the requirement for any authorisation, on condition that such associations are not intended to promote violence and their purposes are not contrary to the criminal law.
2. Associations shall pursue their purposes freely and without interference from the public authorities, and may not be dissolved by the state or have their activities suspended other than in cases provided for by law and then only by judicial decision.
3. No one may be obliged to belong to an association, or be coerced to remain therein by any means.
4. Armed associations, military, militarised or paramilitary-type associations and organisations that are racist or display a fascist ideology are not permitted.

## Article 47

(Freedom to choose a profession and of access to the public service)

1. Everyone has the right to choose a profession or type of work freely, subject to the legal restrictions that are imposed in the collective interest or the restrictions that are inherent in a person's own capabilities.
2. Every citizen has the right of access to the public service under equal and free conditions, as a general rule by means of a competitive selection process.

## CHAPTER II

Rights, freedoms and guarantees concerning participation in politics

## Article 48

(Participation in public life)

1. Every citizen has the right to take part in political life and the direction of the country's public affairs, either directly or via freely elected representatives.
2. Every citizen has the right to be given objective clarifications about acts of the state and of other public entities and to be informed by the Government and other authorities about the management of public affairs.



## Article 49

### (Right to vote)

1. Every citizen who has attained the age of eighteen years has the right to vote, subject to the incapacities provided for in the general law.
2. The right to vote shall be exercised personally and constitutes a civic duty.

## Article 50

### (Right of access to public office)

1. Every citizen has the right of access to public office under equal and free conditions.
2. No one may be prejudiced in his appointments, job or professional career or the social benefits to which he is entitled, due to the exercise of political rights or of public office.
3. In governing the right of access to elected office, the law may only lay down the ineligibilities needed to guarantee both the electors' freedom of choice, and independence and absence of bias in the exercise of the offices in question.

## Article 51

### (Political associations and parties)

1. Freedom of association includes the right to form or take part in political associations and parties and through them to work jointly and democratically towards the formation of the popular will and the organisation of political power.
2. No one may be simultaneously registered as a member of more than one political party, and no one may be deprived of the exercise of any right because he is or ceases to be registered as a member of any legally constituted party.
3. Without prejudice to the philosophy or ideology that underlies their manifestoes, political parties may not employ names that contain expressions which are directly related to any religion or church, or emblems that can be confused with national or religious symbols.
4. No party may be formed with a name or manifesto objectives that show it has a regional nature or scope.
5. Political parties must be governed by the principles of democratic transparency, organisation and management, and participation by all their members.
6. The law shall lay down the rules governing the financing of political parties, particularly as regards the requisites for and limits on public funding, as well as the requirements to publicise their assets and accounts.

## Article 52

### (Right to petition and right of *actio popularis*)

1. Every citizen has the right to individually, or jointly with others, submit petitions, representations, claims or complaints in defence of their rights, the Constitution, the laws or the general interest to the entities that exercise sovereignty, the self-government organs of the autonomous regions, or any authority, as well as the right to be informed of the result of the consideration thereof within a reasonable time limit.

2. The law shall lay down the terms under which collective petitions that are submitted to the Assembleia da República and the Legislative Assemblies of the autonomous regions are considered in plenary sitting.

3. Everyone is granted the right of *actio popularis*, including the right to apply for the applicable compensation for an aggrieved party or parties, in the cases and under the terms provided for by law, either personally or via associations that purport to defend the interests in question. The said right may particularly be exercised in order to:

a) Promote the prevention, cessation or judicial prosecution of offences against public health, consumer rights, the quality of life or the preservation of the environment and the cultural heritage;

b) Safeguard the property of the state, the autonomous regions and local authorities.

### CHAPTER III

#### Workers' rights, freedoms and guarantees

##### Article 53

###### (Job security)

Workers are guaranteed job security, and dismissal without fair cause or for political or ideological reasons is prohibited.

##### Article 54

###### (Workers' committees)

1. Workers have the right to form workers' committees to defend their interests and democratically intervene in the life of their enterprise.

2. Decisions to form workers' committees must be taken by the workers in question, who must approve the committees' by-laws, and must elect their members by direct, secret ballot.

3. Coordinating committees may be created with a view to improving intervention in economic restructuring and in such a way as to guarantee workers' interests.

4. Committee members enjoy the legal protection accorded to trade union delegates.

5. Workers' committees have the right:

a) To receive all the information needed to do their work;

b) To monitor the management of their enterprises;

c) To participate in corporate restructuring processes, especially in relation to training actions or when working conditions are altered;

- d) To take part in drawing up labour legislation and economic and social plans that address their sector;
- e) To manage or participate in the management of their enterprise's social activities;
- f) To promote the election of workers' representatives to the governing bodies of enterprises that belong to the state or other public entities, as laid down by law.

## Article 55

(Freedoms concerning trade unions)

1. Workers are accorded the freedom to form, belong to and operate trade unions as a condition and guarantee of the building of their unity in defence of their rights and interests.
2. In exercising the freedom to form, belong to and operate trade unions, workers are particularly guaranteed the following, without any discrimination:
  - a) The freedom to form trade unions at every level;
  - b) Freedom of membership, and no worker may be obliged to pay dues to a union to which he does not belong;
  - c) The freedom to decide the organisation and internal regulations of trade unions;
  - d) The right to engage in trade union activities in their enterprise;
  - e) The right to political views, in the forms laid down by the respective by-laws.
3. Trade unions must be governed by the principles of democratic organisation and management, to be based on the periodic election of their governing bodies by secret ballot, without the need for any authorisation or homologation, and to be founded on active worker participation in every aspect of trade union activity.
4. Trade unions shall be independent of employers, the state, religious beliefs, and parties and other political associations, and the law must lay down the guarantees that are appropriate to that independence, which is fundamental to the unity of the working classes.
5. Trade unions have the right to establish relations with or join international trade union organisations.
6. Workers' elected representatives enjoy the right to be informed and consulted, as well as to adequate legal protection against any form of subjection to conditions, constraints or limitations on the legitimate exercise of their functions.

## Article 56

(Trade union rights and collective agreements)

1. Trade unions have the competence to defend and promote the defence of the rights and interests of the workers they represent.
2. Trade unions have the right:
  - a) To take part in drawing up labour legislation;
  - b) To take part in the management of social security institutions and other organisations that seek to fulfil workers' interests;

- c) To pronounce themselves on economic and social plans and monitor their implementation;
  - d) To be represented on social concertation bodies, as laid down by law;
  - e) To take part in corporate restructuring processes, especially with regard to training actions or when working conditions are altered.
3. Trade unions have the competence to exercise the right to enter into collective agreements, which shall be guaranteed as laid down by law.
  4. The law shall lay down the rules governing the legitimacy to enter into collective labour agreements and the efficacy of the respective norms.

#### Article 57

##### (Right to strike and prohibition of lock-outs)

1. The right to strike is guaranteed.
2. Workers have the competence to define the scope of the interests that are to be defended by a strike and the law may not limit that scope.
3. The law shall define the conditions under which services that are needed to ensure the safety and maintenance of equipment and facilities and minimum services that are indispensable to the fulfilment of essential social needs are provided during strikes.
4. Lock-outs are prohibited.

### TITLE III

#### Economic, social and cultural rights and duties

##### CHAPTER I

#### Economic rights and duties

#### Article 58

##### (Right to work)

1. Everyone has the right to work.
2. In order to ensure the right to work, the state is charged with promoting:
  - a) The implementation of full-employment policies;
  - b) Equal opportunities in the choice of profession or type of work, and the conditions needed to avoid the gender-based preclusion or limitation of access to any position, work or professional category;
  - c) The cultural and technical training and occupational development of workers.

#### Article 59

(Workers' rights)

1. Regardless of age, sex, race, citizenship, place of origin, religion and political and ideological convictions, every worker has the right:

a) To the remuneration of his work in accordance with its volume, nature and quality, with respect for the principle of equal pay for equal work and in such a way as to guarantee a proper living;

b) That work be organised under conditions of social dignity and in such a way as to provide personal fulfilment and to make it possible to reconcile work and family life;

c) To work in conditions that are hygienic, safe and healthy;

d) To rest and leisure time, a maximum limit on the working day, a weekly rest period and periodic paid holidays;

e) To material assistance when he involuntarily finds himself in a situation of unemployment;

f) To assistance and fair reparation when he is the victim of a work-related accident or occupational illness.

2. The state is charged with ensuring the working, remuneratory and rest-related conditions to which workers are entitled, particularly by:

a) Establishing and updating a national minimum wage which, among other factors, shall have regard to workers' needs, increases in the cost of living, the level of development of the forces of production, the demands of economic and financial stability, and the accumulation of capital for development purposes;

b) Setting national limits on working hours;

c) Especially protecting the work done by women during pregnancy and following childbirth, as well as the work done by minors, the disabled and those whose occupations are particularly strenuous or are undertaken in unhealthy, toxic or dangerous conditions;

d) In cooperation with social organisations, ensuring the systematic development of a network of rest and holiday centres;

e) Protecting emigrant workers' working conditions and guaranteeing their social benefits;

f) Protecting student workers' working conditions.

3. Salaries shall enjoy special guarantees, as laid down by law.

Article 60

(Consumer rights)

1. Consumers have the right to the good quality of the goods and services consumed, to training and information, to the protection of health, safety and their economic interests, and to reparation for damages.

2. Advertising shall be disciplined by law and all forms of concealed, indirect or fraudulent advertising are prohibited.

3. Consumers' associations and consumer cooperatives have the right, as laid down by law, to receive support from the state and to be consulted in relation to consumer-protection issues, and are accorded *legitimitas ad causam* in defence of their members or of collective or general interests.

## Article 61

(Private enterprise, cooperatives and worker management)

1. Private economic enterprise shall be undertaken freely within the overall frameworks defined by the Constitution and the law and with regard for the general interest.
2. Everyone is accorded the right to freely form cooperatives, subject to compliance with cooperative principles.
3. Cooperatives must pursue their activities freely within the overall framework of the law and may group together in unions, federations and confederations and other forms of organisation provided for by law.
4. The law shall lay down the specific organisational requirements for cooperatives in which any public entity possesses an interest.
5. The right to worker management, as laid down by law, is recognised.

## Article 62

(Right to private property)

1. Everyone is guaranteed the right to private property and to the transmission thereof in life or upon death, in accordance with the Constitution.
2. Requisitions and expropriations in the public interest may only be undertaken on a legal basis and upon payment of just compensation.

## CHAPTER II

Social rights and duties

## Article 63

(Social security and solidarity)

1. Everyone has the right to social security.
2. The state is charged with organising, coordinating and subsidising a unified and decentralised social security system, with the participation of the trade unions, other organisations that represent workers and associations that represent the other beneficiaries.
3. The social security system shall protect citizens in illness and old age and when they are disabled, widowed or orphaned, as well as when they are unemployed or in any other situation that entails a lack of or reduction in means of subsistence or the ability to work.
4. All periods of work shall, as laid down by law, contribute to the calculation of old age and disability pensions, regardless of the sector of activity in which they were performed.
5. With a view to the pursuit of the social solidarity objectives that are particularly enshrined in this Article and in Articles 67(2)(b), 69, 70(1)(e), 71 and 72, the state shall, as laid down by law, support and inspect the activities and modus operandi of private charitable institutions and other not-for-profit institutions that are recognised to be in the public interest.

## Article 64

### (Health)

1. Everyone has the right to the protection of health and the duty to defend and promote health.
2. The right to the protection of health shall be fulfilled:
  - a) By means of a universal and general national health service which, with particular regard to the economic and social conditions of the citizens who use it, shall tend to be free of charge;
  - b) By creating economic, social, cultural and environmental conditions that particularly guarantee the protection of childhood, youth and old age; by systematically improving living and working conditions, and promoting physical fitness and sport at school and among the people; and also by developing the people's health and hygiene education and healthy living practices.
3. In order to ensure the right to the protection of health, the state is charged, as a priority, with:
  - a) Guaranteeing access by every citizen, regardless of his economic situation, to preventive, curative and rehabilitative medical care;
  - b) Guaranteeing a rational and efficient nationwide coverage in terms of human resources and healthcare units;
  - c) Working towards the socialisation of the costs of medical care and medicines;
  - d) Disciplining and inspecting entrepreneurial and private forms of medicine and articulating them with the national health service, in such a way as to ensure adequate standards of efficiency and quality in both public and private healthcare institutions;
  - e) Disciplining and controlling the production, distribution, marketing, sale and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis;
  - f) Establishing policies for the prevention and treatment of drug abuse.
4. Management of the national health service shall be decentralised and participatory.

## Article 65

### (Housing and urbanism)

1. Everyone has the right for himself and his family to have an adequately sized dwelling that provides hygienic and comfortable conditions and preserves personal and family privacy.
2. In order to ensure the right to housing, the state is charged with:
  - a) Programming and implementing a housing policy that is incorporated into general town and country planning instruments and supported by urbanisation plans that guarantee the existence of an adequate network of transport and social facilities;
  - b) In cooperation with the autonomous regions and local authorities, promoting the construction of low-cost and social housing;
  - c) Stimulating both private construction, subject to the general interest, and access to owned or rented housing;

d) Encouraging and supporting local community and popular initiatives that work towards the resolution of the respective housing problems and foster the formation of housing and self-building cooperatives.

3. The state shall adopt a policy that works towards the establishment of a rental system which is compatible with family incomes and provides access to individual housing.

4. The state, the autonomous regions and local authorities shall define the rules governing the occupancy, use and transformation of urban land, particularly by means of planning instruments and within the overall framework of the laws concerning town and country planning and urbanism, and shall expropriate land that proves necessary to the fulfilment of public-interest urbanisation goals.

5. The participation of the interested parties in the drawing up of urban planning instruments and any other physical town and country planning instruments is guaranteed.

## Article 66

(Environment and quality of life)

1. Everyone has the right to a healthy and ecologically balanced human living environment and the duty to defend it.

2. In order to ensure the right to the environment within an overall framework of sustainable development, the state, acting via appropriate bodies and with the involvement and participation of citizens, is charged with:

a) Preventing and controlling pollution and its effects and the harmful forms of erosion;

b) Conducting and promoting town and country planning with a view to a correct location of activities, balanced social and economic development and the enhancement of the landscape;

c) Creating and developing natural and recreational reserves and parks and classifying and protecting landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets that are of historic or artistic interest;

d) Promoting the rational use of natural resources, while safeguarding their ability to renew themselves and ecological stability, with respect for the principle of inter-generational solidarity;

e) In cooperation with local authorities, promoting the environmental quality of rural settlements and urban life, particularly on the architectural level and as regards the protection of historic zones;

f) Promoting the integration of environmental objectives into the various policies with a sectoral scope;

g) Promoting environmental education and respect for environmental values and assets;

h) Ensuring that the fiscal policy renders development compatible with the protection of the environment and the quality of life.

## Article 67

(Family)

1. As a fundamental element in society, the family has the right to protection by society and the state and to the effective implementation of all the conditions needed to enable family members to achieve personal fulfilment.



2. In order to protect the family, the state is particularly charged with:

- a) Promoting the social and economic independence of households;
- b) Promoting the creation of, and guaranteeing access to, a national network of crèches and other social facilities designed to support the family, together with a policy for the elderly;
- c) Cooperating with parents in relation to their children's education;
- d) With respect for individual freedom, guaranteeing the right to family planning by promoting the information and access to the methods and means required therefore, and organising the legal and technical arrangements that make it possible to exercise motherhood and fatherhood with awareness;
- e) Regulating assisted procreation in such a way as to safeguard the dignity of the human person;
- f) Regulating taxes and social benefits in harmony with family costs;
- g) After first consulting the associations that represent the family, defining and implementing a global and integrated family policy;
- h) By concerting the various sectoral policies, promoting the reconciliation of work and family life.

#### Article 68

(Fatherhood and motherhood)

1. In performing their irreplaceable role in relation to their children, particularly as regards the children's education, fathers and mothers have the right to protection by society and the state, together with the guarantee of their own professional fulfilment and participation in civic life.
2. Motherhood and fatherhood constitute eminent social values.
3. Women have the right to special protection during pregnancy and following childbirth, and working women also have the right to an adequate period of leave from work without loss of remuneration or any privileges.
4. The law shall regulate the attribution to mothers and fathers of rights to an adequate period of leave from work, in accordance with the interests of the child and the needs of the household.

#### Article 69

(Childhood)

1. With a view to their integral development, children have the right to protection by society and the state, especially from all forms of abandonment, discrimination and oppression and from the improper exercise of authority in the family or any other institution.
2. The state shall ensure special protection for children who are orphaned, abandoned or deprived of a normal family environment in any way.
3. Labour by minors of school age is prohibited, as laid down by law.

#### Article 70

(Youth)

1. In order to ensure the effective fulfilment of their economic, social and cultural rights, young people shall enjoy special protection, particularly:

- a) In education, vocational training and culture;
- b) In access to their first job, at work and in relation to social security;
- c) In access to housing;
- d) In physical education and sport;
- e) In the use of their free time.

2. The priority objectives of the youth policy must be the development of young people's personality, the creation of the conditions needed for their effective integration into the active life, a love of free creativity and a sense of community service.

3. In cooperation with families, schools, enterprises, residents' organisations, cultural associations and foundations and cultural and recreational groups, the state shall foster and support youth organisations in the pursuit of the said objectives, as well as international youth exchanges.

Article 71

(Disabled citizens)

1. Citizens with physical or mental disabilities fully enjoy the rights and are subject to the duties enshrined in the Constitution, save for the exercise or fulfilment of those for which their condition renders them incapable.

2. The state undertakes to implement a national policy for the prevention of disability and the treatment, rehabilitation and integration of disabled citizens and the provision of support to their families, to educate society in such a way as to make it aware of the duties of respect and solidarity towards them, and to undertake the charge of ensuring that their rights are effectively fulfilled, without prejudice to the rights and duties of their parents or guardians.

3. The state shall support disabled citizens' organisations.

Article 72

(The elderly)

1. The elderly have the right to economic security and to conditions in terms of housing and family and community life that respect their personal autonomy and avoid and overcome isolation or social marginalisation.

2. The policy for the elderly shall include measures of an economic, social and cultural nature that tend to provide elderly persons with opportunities for personal fulfilment by means of an active participation in community life.

CHAPTER III

Cultural rights and duties

## Article 73

(Education, culture and science)

1. Everyone has the right to education and culture.
2. The state shall promote the democratisation of education and the other conditions needed for an education conducted at school and via other means of training to contribute to equal opportunities, the overcoming of economic, social and cultural inequalities, the development of the personality and the spirit of tolerance, mutual understanding, solidarity and responsibility, to social progress and to democratic participation in collective life.
3. In cooperation with the media, cultural associations and foundations, cultural and recreational groups, cultural heritage associations, residents' organisations and other cultural agents, the state shall promote the democratisation of culture by encouraging and ensuring access by all citizens to cultural enjoyment and creation.
4. The state shall encourage and support scientific research and creation and technological innovation, in such a way as to ensure their freedom and autonomy, strengthen competitiveness and ensure articulation between scientific institutions and enterprises.

## Article 74

(Education)

1. Everyone has the right to education, with the guarantee of the right to equal opportunities in access to and success in schooling.
2. In implementing the education policy, the state is charged with:
  - a) Ensuring universal, compulsory and free basic education;
  - b) Creating a public, and developing the general, preschool education system;
  - c) Guaranteeing permanent education and eliminating illiteracy;
  - d) In accordance with his capabilities, guaranteeing every citizen access to the highest levels of education, scientific research and artistic creation;
  - e) Progressively making all levels of education free of charge;
  - f) Inserting schools into the communities they serve and establishing links between education and economic, social and cultural activities;
  - g) Promoting and supporting disabled citizens' access to education and supporting special education when necessary;
  - h) Protecting and developing Portuguese sign language, as an expression of culture and an instrument for access to education and equal opportunities;
  - i) Ensuring that emigrants' children are taught the Portuguese language and enjoy access to Portuguese culture;
  - j) Ensuring that immigrants' children receive adequate support in order to enable them to effectively enjoy the right to education.

#### Article 75

(Public, private and cooperative education)

1. The state shall create a network of public education establishments that covers the needs of the whole population.
2. The state shall recognise and inspect private and cooperative education, as laid down by law.

#### Article 76

(University and access to higher education)

1. The regime governing access to university and the other higher education institutions shall guarantee equal opportunities in and the democratisation of the education system, and must have due regard to the country's needs for qualified staff and to raising its educational, cultural and scientific level.
2. As laid down by law and without prejudice to an adequate assessment of the quality of education, universities shall enjoy autonomy in drawing up their own by-laws and in scientific, pedagogical, administrative and financial matters.

#### Article 77

(Democratic participation in education)

1. Teachers and students have the right to take part in the democratic management of schools, as laid down by law.
2. The law shall regulate the forms in which associations of teachers, students and parents, communities and institutions of a scientific nature participate in the definition of the education policy.

#### Article 78

(Cultural enjoyment and creation)

1. Everyone has the right to cultural enjoyment and creation, together with the duty to preserve, defend and enhance the cultural heritage.
2. In cooperation with all cultural agents, the state is charged with:
  - a) Encouraging and ensuring access by all citizens to the means and instruments required for cultural activities, and correcting the country's existing asymmetries in this respect;
  - b) Supporting initiatives that stimulate individual and collective creation in its multiple forms and expressions, and more travel by high quality cultural works and items;
  - c) Promoting the safeguarding and enhancement of the cultural heritage and making it an element that inspires and gives life to a common cultural identity;
  - d) Developing cultural relations with all peoples, especially those that speak Portuguese, and ensuring the defence and promotion of Portuguese culture abroad;
  - e) Articulating the cultural policy with the other sectoral policies.

## Article 79

(Physical education and sport)

1. Everyone has the right to physical education and sport.
2. In cooperation with schools and sporting associations and groups, the state is charged with promoting, stimulating, guiding and supporting the practice and dissemination of physical education and sport, and preventing violence in sport.

## PART II

Organisation of the economy

### TITLE I

General principles

## Article 80

(Fundamental principles)

Society and the economy shall be organised on the basis of the following principles:

- a) The subordination of economic power to democratic political power;
- b) The coexistence of the public, private and cooperative and social sectors in the ownership of the means of production;
- c) Freedom of entrepreneurial initiative and organisation, within the overall framework of a mixed economy;
- d) The public ownership of natural resources and the means of production, in accordance with the collective interest;
- e) The democratic planning of economic and social development;
- f) Protection of the cooperative and social sector of ownership of the means of production;
- g) The participation of organisations that represent workers and organisations that represent economic activities in the definition of the main economic and social measures.

## Article 81

(Priority duties of the state)

In the economic and social field the state is under a priority duty:

- a) Within the overall framework of a sustainable development strategy, to promote an increase in people's social and economic well-being and quality of life, especially those of the most disadvantaged persons;
- b) To promote social justice, ensure equal opportunities and carry out the necessary corrections to inequalities in the distribution of wealth and income, particularly by means of the fiscal policy;

- c) To ensure the full use of the forces of production, particularly by making every effort to ensure the efficiency of the public sector;
- d) To promote the economic and social cohesion of the whole country by guiding development in the direction of a balanced growth in every sector and region and progressively eliminating the economic and social differences between town and country and between the coastal strip and the inland areas;
- e) To promote the correction of the inequalities derived from the autonomous regions' insular nature and encourage those regions' progressive integration into broader economic areas within a national or international framework;
- f) To ensure the efficient operation of the markets, in such a way as to guarantee a balanced competition between enterprises, counter monopolistic forms of organisation and repress abuses of dominant positions and other practices that are harmful to the general interest;
- g) To develop economic relations with all peoples, while always safeguarding national independence and the interests of the Portuguese people and the country's economy;
- h) To eliminate very large estates and restructure small farms;
- i) To guarantee the defence of consumer rights and interests;
- j) To create the legal and technical instruments needed to democratically plan economic and social development;
- l) To ensure the existence of a science and technology policy that favours the country's development;
- m) To adopt a national energy policy that preserves natural resources and the ecological balance, while promoting international cooperation in this domain;
- n) To adopt a national water policy that uses, plans and manages water resources rationally.

## Article 82

(Sectors of ownership of the means of production)

1. The coexistence of three sectors of ownership of the means of production is guaranteed.
2. The public sector comprises the means of production that rightly belong to and are managed by the state or other public entities.
3. Without prejudice to the provisions of the following paragraph, the private sector comprises the means of production that rightly belong to or are managed by private individuals or private groups.
4. The cooperative and social sector specifically comprises:
  - a) Means of production that cooperatives possess and manage in accordance with cooperative principles, without prejudice to the specific provisions that are laid down by law for cooperatives in which the public sector holds a stake and are justified by the special nature thereof;
  - b) Community means of production possessed and managed by local communities;
  - c) Means of production operated by worker collectives;
  - d) Means of production possessed and managed by not-for-profit legal persons whose primary objective is social solidarity, particularly entities of a mutualist nature.

## Article 83

(Requisites for compulsory purchase)

The law shall lay down the means and forms of intervention in relation to, and for the public appropriation of, means of production, together with the criteria for setting the applicable compensation.

## Article 84

(Public domain)

1. The following belong to the public domain:

- a) Territorial waters, together with their beds and the adjacent seabeds, and lakes, lagoons and watercourses that are suitable for navigation or flotation, together with their beds;
- b) Airspace over Portuguese territory, above the recognised limit for proprietary or surface rights;
- c) Mineral deposits, mineral and medicinal water sources and natural subterranean cavities below the ground, save for rocks, ordinary earth and other materials that are habitually used for construction;
- d) Roads;
- e) National railway lines;
- f) Other property that is classified as such by law.

2. The law shall define what property forms part of the public state domain, the public domain of the autonomous regions and the public domain of local authorities, as well as the regime, terms and conditions of use and limits governing it.

## Article 85

(Cooperatives and worker-management experiments)

1. The state shall stimulate and support the creation and activities of cooperatives.
2. The law shall define the fiscal and financial benefits to be enjoyed by cooperatives, as well as preferential terms and conditions for obtaining credit and technical assistance.
3. The state shall support viable worker-management experiments.

## Article 86

(Private enterprises)

1. The state shall encourage entrepreneurial activity, particularly that of small and medium-sized enterprises, and shall inspect fulfilment of the respective legal obligations, especially by enterprises that engage in activities that are of general interest to the economy.
2. The state may only intervene in the management of private enterprises on a transitional basis, in cases that are expressly provided for by law and, as a general rule, subject to prior judicial decision.

3. The law may define basic sectors in which private enterprises and other entities of the same nature are forbidden to do business.

#### Article 87

(Foreign economic activity and investment)

The law shall discipline economic activity and investment by foreign natural and legal persons, with the aim of ensuring that they contribute to the country's development and defending national independence and workers' interests.

#### Article 88

(Abandoned means of production)

1. Abandoned means of production may be expropriated under terms and conditions to be laid down by law, which must pay due regard to the specific situation of the property of emigrant workers.

2. Means of production that are abandoned without good reason may also be the object of compulsory rental or operating concessions under terms to be laid down by law.

#### Article 89

(Worker participation in management)

The workers of units of production in the public sector shall be ensured an effective participation in the respective management.

### TITLE II

#### Plans

#### Article 90

(Objectives of plans)

The objective of economic and social development plans shall be to promote economic growth, the harmonious and integrated development of sectors and regions, the just division of the national product between persons and between regions, the coordination of the economic policy with the social, education and cultural policies, the defence of the rural world, the preservation of the ecological balance, the defence of the environment and the quality of life of the Portuguese people.

#### Article 91

(Drawing up and implementation of plans)

1. National Plans shall be drawn up in harmony with the respective laws governing the Major Options, and may incorporate specific programmes with a territorial and sectoral scope.



2. Government bills in relation to the Major Options shall be accompanied by reports setting out the grounds for them.
3. National Plans shall be implemented on a decentralised, regional and sectoral basis.

#### Article 92

(Economic and Social Council)

1. The Economic and Social Council is the organ with responsibility for consultation and concertation in the economic and social policy domain, shall take part in drafting the Major Options and the economic and social development plans, and shall exercise any other functions allocated to it by law.
2. The law shall define the composition of the Economic and Social Council, which shall particularly include representatives of the Government, of the organisations that represent workers, economic activities and families, of the autonomous regions and of local authorities.
3. The law shall also define the way in which the Economic and Social Council is organised and its modus operandi, together with the status and role of its members.

#### TITLE III

Agricultural, commercial and industrial policies

#### Article 93

(Agricultural policy objectives)

1. The objectives of the agricultural policy shall be:
  - a) To increase agricultural production and productivity by providing agriculture with adequate infrastructures and human, technical and financial resources that will work towards an increase in competitiveness and to ensure the quality of its products, their effective marketing and sale, an improved supply for the country and a rise in exports;
  - b) To promote the improvement of the economic, social and cultural situation of rural workers and farmers, the development of the rural world, the rationalisation of the structure of land ownership, the modernisation of the business fabric, and the access by those that work the land to ownership or possession of the land itself and of the other means of production that they directly employ thereon;
  - c) To create the conditions needed to achieve effective equality between those who work in agriculture and other workers and to prevent the agricultural sector from being disadvantaged in its exchanges with other sectors;
  - d) To ensure the rational use and management of the soil and other natural resources and to maintain their regenerative capability;
  - e) To encourage farmers to form and join associations and to directly work the land.
2. The state shall promote a policy of agrarian planning and reconversion and forestry development, in accordance with the ecological and social factors that condition the country.

#### Article 94

(Elimination of very large estates)

1. The law shall regulate the resizing of farming units that are excessively large from the point of view of the agricultural policy objectives, and, in the case of expropriation, must provide for the right of each owner to the corresponding compensation and to the retention of an area that is sufficient to ensure the viability and rationality of his own farm.

2. Without prejudice to the stipulation of an experimental period prior to the grant of full title in order to determine whether the land in question is being used effectively and rationally, expropriated land shall be handed over for either ownership or holding, as laid down by law, to small farmers, preferably those integrated into family farming units, to rural workers' or small farmers' cooperatives, or to other forms of worker operation.

Article 95

(Resizing of small farms)

Without prejudice to the right of ownership and as laid down by law, the state shall promote the resizing of farming units that are smaller than that which is suitable from the point of view of the agricultural policy objectives, particularly by means of legal, fiscal and credit incentives for their structural or merely economic integration, particularly in a cooperative form, or by measures designed to join parcels of land together.

Article 96

(Forms of use of non-owned land)

1. The law shall regulate the regimes governing the rental and other forms of use of non-owned land in such a way as to guarantee the security and legitimate interests of those who cultivate it.

2. The fee-farming and colony systems shall be prohibited and the conditions that those who cultivate the land need to put an effective end to the agricultural partnership system shall be created.

Article 97

(State assistance)

1. In pursuit of the agricultural policy objectives the state shall provide preferential support to small and medium-sized farmers, particularly when they are integrated into family farming units, are sole farmers or are associated in cooperatives, as well as to agricultural workers' cooperatives and other forms of worker operation.

2. This state support shall particularly comprise:

a) The grant of technical assistance;

b) The creation of forms of marketing and sales support upstream and downstream from production;

c) Support for the coverage of risks resulting from unpredictable or uncontrollable climatic or phytopathological incidents;

d) Stimuli to encourage rural workers and farmers to form and join associations, particularly by forming producers', purchasing, sales, processing and service cooperatives and other forms of worker operation.

## Article 98

(Participation in defining the agricultural policy)

Rural workers and farmers shall be ensured participation in the definition of the agricultural policy via the organisations that represent them.

## Article 99

(Commercial policy objectives)

The objectives of the commercial policy shall be:

- a) Healthy competition between commercial agents;
- b) The rationalisation of distribution circuits;
- c) To combat speculative activities and restrictive commercial practices;
- d) The development and diversification of external economic relations; e)

Consumer protection.

## Article 100

(Industrial policy objectives)

The objectives of the industrial policy shall be:

- a) The increase of industrial production within an overall framework of the modernisation and adjustment of social and economic interests and the international integration of the Portuguese economy;
- b) The strengthening of industrial and technological innovation;
- c) The increase of the competitiveness and productivity of industrial enterprises;
- d) Support for small and medium-sized enterprises and, in general, for ventures and enterprises that generate employment and foster exports or substitutes for imports;
- e) Support for the international prominence of Portuguese enterprises.

## TITLE IV

Financial and fiscal system

### Article 101

(Financial system)

The financial system shall be structured by law in such a way as to guarantee the accumulation, deposit and security of savings, as well as the application of the financial resources needed for economic and social development.

## Article 102

(Bank of Portugal)

The Bank of Portugal is the national central bank and shall exercise its functions as laid down by law and in accordance with the international norms by which the Portuguese state is bound.

## Article 103

(Fiscal system)

1. The fiscal system shall aim to satisfy the financial needs of the state and of other public entities and to ensure a just distribution of income and wealth.
2. Taxes shall be created by laws, which shall lay down their applicability and rate, fiscal benefits and the guarantees accorded to taxpayers.
3. No one shall be obliged to pay taxes that are not created in accordance with the Constitution, are retroactive in nature, or are not charged and collected as laid down by law.

## Article 104

(Taxes)

1. Personal income tax shall aim to reduce inequalities, shall be single and progressive and shall pay due regard to the needs and incomes of households.
2. Enterprises shall essentially be taxed on their real income.
3. The taxation of assets must contribute to equality between citizens.
4. The taxation of consumption shall aim to adapt the structure of consumption to evolution in the requirements for economic development and social justice, and must increase the cost of luxury consumer items.

## Article 105

(Budget)

1. The State Budget shall contain:
  - a) A breakdown of the state's income and expenditure, including that of autonomous funds and departments;
  - b) The social security budget.
2. The Budget shall be drawn up in harmony with the major planning options and in the light of legal and contractual obligations.
3. The Budget shall be a single budget and shall set out expenditure in accordance with the respective organisational and functional classification, in such a way as to preclude the existence of secret appropriations and funds. It may also be structured by programmes.

4. The Budget shall provide for the income needed to cover expenditure, and the law shall define the rules governing the Budget's execution, the terms and conditions governing the resort to public credit, and the criteria that must govern the alterations that the Government makes during the course of the Budget's execution in the organisational classification headings of each budget programme passed by the Assembleia da República, with a view to its full implementation.

#### Article 106

(Drawing up the Budget)

1. The Budget Law shall be annually drawn up, organised, put to the vote and implemented in accordance with the applicable framework law, which shall include the regime governing the drawing up and execution of the budgets of autonomous funds and departments.

2. The Budget bill shall be presented and put to the vote within the time limits set by law, and the law shall lay down the procedures to be adopted when those time limits cannot be met.

3. The Budget bill shall be accompanied by reports on:

- a) A forecast of the evolution of the main macroeconomic indicators that have an influence on the Budget, as well as the evolution of the money supply and the sources thereof;
- b) The grounds for variations in the income and expenditure forecasts compared to the previous Budget;
- c) The public debt, treasury operations and the Treasury accounts;
- d) The situation of autonomous funds and departments;
- e) Transfers of funds to the autonomous regions and local authorities;
- f) Any financial transfers between Portugal and other countries that affect the Budget bill;
- g) Fiscal benefits and an estimate of the ensuing reduction in income.

#### Article 107

(Scrutiny)

The Budget's execution shall be scrutinised by the Court of Auditors and the Assembleia da República. Following receipt of an opinion issued by the Court of Auditors, the Assembleia da República shall consider the General State Accounts, including the social security accounts, and shall put them to the vote.

### PART III

Organisation of political power

#### TITLE I

General principles

#### Article 108

(Source and exercise of power)

Political power lies with the people and shall be exercised in accordance with the Constitution.

## Article 109

(Citizens' participation in politics)

The direct and active participation in political life by men and women is a condition for and a fundamental instrument in the consolidation of the democratic system, and the law must promote both equality in the exercise of civic and political rights and the absence of gender-based discrimination in access to political office.

## Article 110

(Entities that exercise sovereignty)

1. The President of the Republic, the Assembleia da República, the Government and the Courts are entities that exercise sovereignty.
2. The formation, composition, competences and modus operandi of the entities that exercise sovereignty are those defined in the Constitution.

## Article 111

(Separation and interdependence)

1. The entities that exercise sovereignty must respect the separation and interdependence laid down in the Constitution.
2. No entity that exercises sovereignty and no organ of an autonomous region or local government organ may delegate its powers to other entities or organs, save in the cases and under the terms that are expressly provided for in the Constitution and the law.

## Article 112

(Normative acts)

1. Legislative acts comprise laws, executive laws and regional legislative decrees.
2. Without prejudice to the subordination of executive laws that are published under legislative authorisation and of those that develop the general bases of legal regimes to the corresponding laws, laws and executive laws possess equal force.
3. Organic laws, laws which must be passed by a two-thirds majority, and laws which, under the Constitution, are normative prerequisites for other laws or must be obeyed by other laws, possess superior legal force.
4. Without prejudice to the provisions of Article 227(1)(b) and (c), legislative decrees possess a regional scope and address matters set out in the political and administrative statute of the respective autonomous region that are not the exclusive competence of entities that exercise sovereignty.
5. No law may create other categories of legislative act, or grant other types of act the power to interpret, complete, modify, suspend or repeal any of its precepts in a way that produces external effects.

6. Government regulations shall take the form of regulatory decrees when so required by the law they regulate, as well as in the case of independent regulations.

7. Regulations shall make express mention of the laws which they are intended to regulate, or which define the subjective and objective competence to issue them.

8. The transposition of European Union legal acts into the internal legal order shall take the form of a law, an executive law, or, in accordance with the provisions of paragraph (4), a regional legislative decree.

## Article 113

(General principles of electoral law)

1. Direct, secret and periodic suffrage is the general rule for the appointment of the officeholders of the elected entities that exercise sovereignty, elected organs of autonomous regions and elected local government organs.

2. Without prejudice to the provisions of Articles 15(4) and (5) and 121(2), electoral registration is conducted at the initiative of the citizen and is compulsory and permanent, and there is a single registration system for all elections that are held by direct, universal suffrage.

3. Election campaigns are governed by the following principles:

- a) Freedom of propaganda;
- b) Equal opportunities and treatment for all candidatures;
- c) The impartiality of public entities towards all candidatures;
- d) The transparency and scrutiny of electoral accounts.

4. Citizens are under a duty to cooperate with the electoral administration in the forms laid down by law.

5. Votes are converted into seats in harmony with the principle of proportional representation.

6. Any act that dissolves a collegial organ that is based on direct suffrage must also set the date of the new election thereto, which shall take place within the following sixty days and in accordance with the electoral law that is in force at the time of the dissolution, failing which the electoral act shall be legally nugatory.

7. The competence to judge the correctness and validity of electoral procedural acts pertains to the courts.

## Article 114

(Political parties and right of opposition)

1. Political parties hold seats in entities and organs that are based on universal, direct suffrage in accordance with their proportion of election results.

2. Minorities are accorded the right of democratic opposition, as laid down in the Constitution and the law.

3. Political parties that hold seats in the Assembleia da República and do not form part of the Government particularly have the right to be regularly and directly informed by the Government about the situation and progress of the main matters of public interest. Political parties that hold seats in Legislative

Assemblies of the autonomous regions or in any other directly elected assemblies have the same right in relation to the corresponding executive, in the event that they do not form part thereof.

## Article 115

### (Referenda)

1. Upon a proposal submitted by the Assembleia da República or the Government in relation to matters that fall within their respective competences, in the cases provided for and as laid down in the Constitution and the law, the President of the Republic may decide to call upon citizens who are registered to vote in Portuguese territory to directly and bindingly pronounce themselves by referendum.

2. Referenda may also result from the submission by citizens of an initiative to the Assembleia da República. Such initiatives shall be submitted and considered under the terms and within the time limits laid down by law.

3. Only important issues concerning the national interest which the Assembleia da República or the Government must decide by approving an international convention or passing a legislative act may be the object of a referendum.

4. The following are excluded from the scope of referenda:

a) Amendments to the Constitution;

b) Questions and acts with a budgetary, tax-related or financial content;

c) The matters provided for in Article 161 of the Constitution, without prejudice to the provisions of the following paragraph;

d) The matters provided for in Article 164 of the Constitution, except for the provisions of subparagraph (i).

5. The provisions of the previous paragraph do not prejudice the submission to referendum of important issues concerning the national interest that must be the object of an international convention pursuant to Article 161(i), except when they concern peace or the rectification of borders.

6. Each referendum shall only address one matter. Questions must be objectively, clearly and precisely formulated, shall solicit yes or no answers, and may not exceed a maximum number to be laid down by law. The law shall also lay down the other terms governing the formulation and effective implementation of referenda.

7. Referenda may not be called or held between the dates on which general elections for the entities that exercise sovereignty, elections for the self-government organs of the autonomous regions and for local government organs, as well as for Members of the European Parliament, are called and those on which they are held.

8. The President of the Republic shall submit all draft referenda submitted to him by the Assembleia da República or the Government, to compulsory prior review of their constitutionality and legality.

9. The norms contained in Article 113(1), (2), (3), (4) and (7) are applicable to referenda, *mutatis mutandis*.

10. Draft referenda that are refused by the President of the Republic or are negated by the electorate may not be resubmitted during the same legislative session, save new elections to the Assembleia da República, or until the Government resigns or is removed.

11. Referenda only have binding effect when the number of voters exceeds half the number of registered electors.



12. Citizens who reside abroad and are properly registered to vote under the provisions of Article 121(2) shall be called upon to take part in referenda that address matters which specifically also concern them.

13. Referenda may be regional in scope, in accordance with Article 232(2).

#### Article 116

(Collegial organs)

1. Except in the cases provided for by law, meetings of assemblies that function as entities that exercise sovereignty, as organs of autonomous regions or as local government organs shall be public.

2. Collegial entities and organs shall take their decisions in the presence of a majority of the number of members they are prescribed to have by law.

3. Save in cases provided for by the Constitution, the law or the respective rules of procedure, collegial entities and organs shall take their decisions by a simple majority and abstentions shall not count in the calculation thereof.

#### Article 117

(Statutes governing political officeholders)

1. Political officeholders are politically, civilly and criminally liable for their actions and omissions in the exercise of their functions.

2. The law shall make provision for the duties, responsibilities, liabilities and incompatibilities of political officeholders and the consequences of any breach thereof, together with their rights, privileges and immunities.

3. The law shall lay down the special crimes for which political officeholders may be held liable, together with the applicable sanctions and the effects thereof, which may include removal from office or loss of seat.

#### Article 118

(Renewal principle)

1. No one may exercise any political office with a national, regional or local political scope for life.

2. The law may place limits on successive renewals of mandates of holders of executive political office.

#### Article 119

(Publicising of acts)

1. The following shall be published in the official journal – the *Diário da República*:

a) Constitutional laws;

- b) International conventions and the respective ratification notices, together with the rest of the notices in relation thereto;
  - c) Laws, executive laws and regional legislative decrees;
  - d) Decrees of the President of the Republic;
  - e) Resolutions of the Assembleia da República and of the Legislative Assemblies of the autonomous regions;
  - f) The Rules of Procedure of the Assembleia da República, the Council of State and the Legislative Assemblies of the autonomous regions;
  - g) Decisions of the Constitutional Court, and other court decisions to which the law grants generally binding force;
  - h) Regulatory decrees and other decrees and regulations issued by the Government, together with decrees of the Representatives of the Republic to the autonomous regions and regional regulatory decrees;
  - i) The results of elections to or for entities that exercise sovereignty, organs of autonomous regions and local government organs, as well as to the European Parliament, and also the results of national and regional referenda.
2. Failure to publicise the acts provided for in subparagraphs (a) to (h) of the previous paragraph and of any act with a generic content of entities that exercise sovereignty, organs of autonomous regions and local government organs shall cause them to be without legal effect.
3. The law shall lay down the forms in which other acts are to be publicised and the consequences of any failure to do so.

## TITLE II

### President of the Republic

#### CHAPTER I

##### Status, role and election

###### Article 120

###### (Definition)

The President of the Republic represents the Portuguese Republic, guarantees national independence, the unity of the state and the proper operation of the democratic institutions, and is *ex officio* Commander-in-Chief of the Armed Forces.

###### Article 121

###### (Election)

1. The President of the Republic is elected by the universal, direct and secret suffrage of Portuguese citizens who are registered to vote in Portuguese territory and, in accordance with the following paragraph, of Portuguese citizens who reside abroad.
2. The law shall regulate the right to vote of Portuguese citizens who reside abroad, to which end it must pay due regard to the existence of ties that effectively link them to the Portuguese community.

3. The right to vote in Portuguese territory shall be exercised in person.

#### Article 122

(Eligibility for election)

Citizens of Portuguese origin who are registered to vote and have attained the age of thirty-five are eligible for election.

#### Article 123

(Eligibility for re-election)

1. Re-election to a third consecutive term of office, or during the five years immediately following the end of a second consecutive term of office, is not permitted.
2. If the President of the Republic resigns, he may not stand again in the next election, or in any that take place in the five years immediately following his resignation.

#### Article 124

(Nominations)

1. Nominations for President of the Republic must be put forward by at least seven thousand five hundred and at most fifteen thousand registered electors.
2. Nominations must be submitted to the Constitutional Court at least thirty days prior to the date set for the election.
3. In the case of the death of any candidate, or of any other fact that renders any candidate incapable of exercising the functions of President of the Republic, the election process shall recommence under terms to be defined by law.

#### Article 125

(Date of election)

1. The President of the Republic shall be elected during the sixty days prior to the end of his predecessor's term of office, or during the sixty days after the office becomes vacant.
2. The election may not take place during the ninety days prior to or following the date of elections to the Assembleia da República.
3. In the case provided for in the previous paragraph, the election shall take place during the ten days following the end of the period set out therein, and the term of office of the outgoing President shall automatically be extended for the necessary period.

#### Article 126

(Electoral system)

1. The candidate who receives more than half of the validly cast votes shall be elected President of the Republic. Blank ballot papers are considered not to have been validly cast.
2. If none of the candidates obtains this number of votes, a second ballot shall be held within twenty-one days of the first one.
3. Only the two candidates who received most votes in the first ballot and have not withdrawn their candidatures shall stand in the second ballot.

#### Article 127

(Installation and swearing in)

1. The President elect is installed before the Assembleia da República.
2. His installation takes place on the last day of the outgoing President's term of office, or, in the case of election to a vacant office, on the eighth day following that on which the election results are published.
3. Upon taking office the President of the Republic elect shall take the following oath:

*I swear by my honour to faithfully perform the functions in which I am invested and to defend and observe the Constitution of the Portuguese Republic and cause it to be observed.*

#### Article 128

(Term of office)

1. The term of office of President of the Republic is five years and ends upon installation of the new President elect.
2. In the event that the office falls vacant, the newly elected President of the Republic commences a new term of office.

#### Article 129

(Absence from Portuguese territory)

1. The President of the Republic may not absent himself from Portuguese territory without the consent of the Assembleia da República or, if the Assembly is not in full session, of its Standing Committee.
2. Consent is dispensed with in cases in which the President of the Republic is in transit or is on an unofficial visit lasting no more than five days. However, he must notify the Assembleia da República of such cases in advance.
3. Failure to comply with the provisions of paragraph (1) automatically entails loss of office.

#### Article 130

(Criminal liability)

1. The President of the Republic answers before the Supreme Court of Justice for crimes committed in the exercise of his functions.
2. Proceedings may only be initiated by the Assembleia da República, upon a motion subscribed by one fifth and a decision passed by a two-thirds majority of all the Members of the Assembleia da República in full exercise of their office.
3. Conviction implies removal from office and disqualification from re-election.
4. For crimes that are not committed in the exercise of his functions, the President of the Republic answers before the common courts, once his term of office has ended.

#### Article 131

(Resignation)

1. The President of the Republic may resign by means of a message addressed to the Assembleia da República.
2. The resignation takes effect when the Assembleia da República takes note of the message, without prejudice to its subsequent publication in the *Diário da República*.

#### Article 132

(Acting President)

1. While the President of the Republic is temporarily unable to perform his functions, or while the office is vacant and until the new President elect is installed, his functions are performed by the President of the Assembleia da República, or, in the event that the latter is unable to do so, by his substitute.
2. While he exercises the functions of President of the Republic in an acting capacity, the President of the Assembleia da República or his substitute's mandate as Member of the Assembly is automatically suspended.
3. While he is temporarily unable to perform his functions, the President of the Republic retains the rights and privileges inherent to his office.
4. An acting President of the Republic enjoys all the honours and prerogatives of the office, but his rights are those of the office to which he was elected.

### CHAPTER II

Competences

#### Article 133

(Competences in relation to other entities)

In relation to other entities and organs the President of the Republic has the competences:

- a) To chair the Council of State;

- b) In harmony with electoral law, to set the date for elections for President of the Republic, Members of the Assembleia da República, Members of the European Parliament and members of the Legislative Assemblies of the autonomous regions;
- c) To call extraordinary sittings of the Assembleia da República;
- d) To address messages to the Assembleia da República and the Legislative Assemblies of the autonomous regions;
- e) Subject to the provisions of Article 172 and after first consulting both the Council of State and the parties with seats in the Assembleia da República, to dissolve that Assembly;
- f) To appoint the Prime Minister pursuant to Article 187(1);
- g) To remove the Government in accordance with Article 195(2), and to discharge the Prime Minister from office pursuant to Article 186(4);
- h) Upon a proposal from the Prime Minister, to appoint members of the Government and discharge them from office;
- i) When asked to do so by the Prime Minister, to chair the Council of Ministers;
- j) After first consulting the Council of State and the parties with seats in the Legislative Assemblies of the autonomous regions, and subject to the provisions of Article 172, *mutatis mutandis*, to dissolve those Legislative Assemblies;
- l) After first consulting the Government, to appoint the Representatives of the Republic to the autonomous regions and discharge them from office;
- m) Upon a proposal from the Government, to appoint the President of the Court of Auditors and the Prosecutor General and discharge them from office;
- n) To appoint five members of the Council of State and two ordinary members of the High Council for the Judiciary;
- o) To chair the Supreme National Defence Council;
- p) Upon a proposal from the Government, to appoint the Chief of the General Staff of the Armed Forces and discharge him from office; and, upon a proposal from the Government and after consulting the Chief of the General Staff of the Armed Forces, to appoint the Deputy Chief of the General Staff of the Armed Forces if any, and the Chiefs of Staff of the three armed services, and discharge them from office.

#### Article 134

(Personal competences)

In the practice of personal acts the President of the Republic has the competences:

- a) To exercise the functions of Commander-in-Chief of the Armed Forces;
- b) To enact laws, executive laws and regulatory decrees and order their publication, and to sign both resolutions of the Assembleia da República that approve international agreements and the rest of the Government's decrees;
- c) To submit important issues of national interest, as laid down in Article 115, and those referred to in Articles 232(2) and 256(3), to referendum;

- d) To declare a state of siege or a state of emergency, in compliance with the provisions of Articles 19 and 138;
- e) To pronounce on all emergencies that are of serious consequence to the life of the Republic;
- f) After first consulting the Government, to grant remissions of sentence and commute sentences;
- g) To ask the Constitutional Court to undertake a prior review of the constitutionality of the norms contained in laws and executive laws and international conventions;
- h) To ask the Constitutional Court to declare whether legal norms are unconstitutional and verify the existence of unconstitutionality by omission;
- i) To confer decorations in accordance with the law, and to exercise the function of Grand Master of Portugal's honorary orders.

#### Article 135

(Competences in international relations)

In international relations the President of the Republic has the competences:

- a) To appoint ambassadors and extraordinary envoys upon a proposal from the Government, and to accredit foreign diplomatic representatives;
- b) Once they have been duly approved, to ratify international treaties;
- c) Upon a proposal from the Government, after consulting the Council of State and subject to authorisation by the Assembleia da República, or, when the Assembly is not sitting and it is not possible to arrange for it to sit immediately, by its Standing Committee, to declare war in the case of effective or imminent aggression and to make peace.

#### Article 136

(Enactment and veto)

1. Within a time limit of twenty days counting from the receipt of any decree of the Assembleia da República for enactment as a law, or of the publication of the decision in which the Constitutional Court refrains from pronouncing the unconstitutionality of any norm contained therein, the President of the Republic must enact the decree, or exercise the right of veto and send a message setting out the grounds for doing so and requesting that the legislative act be reconsidered.
2. If the Assembleia da República confirms its vote by an absolute majority of all the Members of the Assembleia da República in full exercise of their office, the President of the Republic must enact the legislative act within a time limit of eight days counting from its receipt.
3. However, a majority that is at least equal to two thirds of all Members present and is greater than an absolute majority of all the Members in full exercise of their office is required to confirm decrees that take the form of organic laws, as well as to confirm those concerning the following matters:
  - a) External relations;
  - b) Boundaries between the public, private and cooperative and social sectors of ownership of the means of production;

c) Any regulation of the electoral acts provided for in the Constitution that does not take the form of an organic law.

4. Within a time limit of forty days counting from the receipt of any Government decree for enactment, or of the publication of the decision in which the Constitutional Court refrains from pronouncing the unconstitutionality of any norm contained therein, the President of the Republic shall enact the decree, or exercise his right of veto and inform the Government in writing of the reasons for doing so.

5. The President of the Republic shall also exercise the right of veto pursuant to Articles 278 and 279.

#### Article 137

(Failure to enact or sign)

Failure by the President of the Republic to enact or sign any of the acts provided for in Article 134(b) means that that act is legally nugatory.

#### Article 138

(Declaration of a state of siege or of a state of emergency)

1. Declaration of a state of siege or a state of emergency requires prior consultation of the Government and authorisation by the Assembleia da República, or, if the Assembly is not sitting and it is not possible to arrange for it to sit immediately, by its Standing Committee.

2. When a declaration of a state of siege or a state of emergency is authorised by the Assembleia da República's Standing Committee, that declaration will then have to be confirmed by the Plenary as soon as it is possible to arrange for it to sit.

#### Article 139

(Acts of an acting President of the Republic)

1. Acting Presidents of the Republic may not undertake any of the acts provided for in Articles 133(e) and (n) and 134(c).

2. Acting Presidents of the Republic may only undertake any of the acts provided for in Articles 133(b), (c), (f), (m) and (p), 134(a) and 135(a) after first consulting the Council of State.

#### Article 140

(Ministerial counter-signature)

1. Acts that the President of the Republic undertakes under the terms of Articles 133(h), (j), (l), (m) or (p), 134(b), (d) or (f) or 135(a), (b) or (c) require counter-signature by the Government.

2. The absence of the counter-signature renders the act legally nugatory.

### CHAPTER III



## Council of State

### Article 141

#### (Definition)

The Council of State is the political organ that advises the President of the Republic.

### Article 142

#### (Composition)

The Council of State is chaired by the President of the Republic and is also composed of the following members:

- a) The President of the Assembleia da República;
- b) The Prime Minister;
- c) The President of the Constitutional Court;
- d) The Ombudsman;
- e) The presidents of the regional governments;
- f) Former Presidents of the Republic who were elected under the Constitution and were not removed from office;
- g) Five citizens appointed by the President of the Republic for the period of his term of office;
- h) Five citizens elected by the Assembleia da República in harmony with the principle of proportional representation, for the period that corresponds to the duration of the legislature.

### Article 143

#### (Installation and term of office)

1. The members of the Council of State are installed by the President of the Republic.
2. Those members of the Council of State who are provided for in Article 142(a) to (e) shall continue to serve for as long as they remain in the respective offices.
3. Those members of the Council of State who are provided for in Article 142(g) and (h) shall continue to serve until the installation of those who replace them in the respective offices.

### Article 144

#### (Organisation and modus operandi)

1. The competence to draw up its own Rules of Procedure pertains to the Council of State.
2. Council of State meetings are not public.

### Article 145

(Competences)

The Council of State has the competences:

- a) To pronounce on dissolutions of the Assembleia da República and the Legislative Assemblies of the autonomous regions;
- b) To pronounce on the removal of the Government in the case provided for in Article 195(2);
- c) To pronounce on declarations of war and the making of peace;
- d) To pronounce on those acts of acting Presidents of the Republic that are referred to in Article 139;
- e) To pronounce on the other cases provided for in the Constitution, and in general and when asked to do so by the President of the Republic, to advise him in the exercise of his functions.

Article 146

(Issue of opinions)

The Council of State opinions provided for in Article 145(a) to (e) shall be issued at meetings which the President of the Republic calls for that purpose, and shall be made public when the act to which they refer is undertaken.

TITLE III

Assembleia da República

CHAPTER I

Status, role and election

Article 147

(Definition)

The Assembleia da República is the assembly that represents all Portuguese citizens.

Article 148

(Composition)

The Assembleia da República shall have a minimum of one hundred and eighty and a maximum of two hundred and thirty Members, as laid down by electoral law.

Article 149

(Constituencies)

1. Members of the Assembleia da República are elected for constituencies that shall be geographically defined by law. The law may order the creation of plurinomial and uninominal constituencies and lay

down the nature and complementarity thereof, in such a way as to ensure that votes are converted into numbers of seats in accordance with the proportional representation system and using D'Hondt's highest-average rule.

2. With the exception of the national constituency when one exists, the number of Members of the Assembleia da República for each plurinominal constituency in Portuguese territory shall be proportional to the number of citizens registered to vote therein.

#### Article 150

(Eligibility)

Save for the restrictions that electoral law lays down in relation to local incompatibilities or the exercise of certain offices, all Portuguese citizens who are registered to vote are eligible for election.

#### Article 151

(Nominations)

1. Nominations are submitted by political parties as laid down by law. Parties may submit nominations individually or in coalition, and the lists may include citizens who are not registered members of the respective parties.

2. No one may be a candidate for more than one constituency of the same nature, with the exception of the national constituency when one exists. No one may appear on more than one list.

#### Article 152

(Political representation)

1. The law may not set limits on the conversion of votes into seats by requiring a minimum national percentage of votes cast.

2. Members of the Assembleia da República represent the whole country and not the constituencies for which they are elected.

#### Article 153

(Beginning and end of term of office)

1. Without prejudice to the suspension or termination of any individual mandate, terms of office of Members of the Assembleia da República begin with the first sitting of the Assembly following elections and end with the first sitting following the subsequent elections.

2. Electoral law shall regulate the filling of vacancies that arise in the Assembleia da República, as well as the temporary substitution of Members on important grounds.

#### Article 154

(Incompatibilities and disqualifications)

1. Members of the Assembleia da República who are appointed to be members of the Government may not exercise their mandate until the latter functions end, and shall be substituted in accordance with the previous Article.

2. The law shall lay down any other incompatibilities.

3. The law shall regulate the cases and circumstances in which Members require the Assembleia da República authorisation in order to be jurors, arbiters, experts or witnesses.

#### Article 155

(Exercise of the function of Member of the Assembleia da República)

1. Members of the Assembleia da República shall exercise their mandates freely and shall be guaranteed the conditions needed to exercise their functions effectively, particularly those needed for the indispensable contact with registered electors and for ensuring that the latter are regularly kept informed.

2. The law shall regulate the circumstances in which the absence of Members from official acts or proceedings that do not concern the Assembleia da República, due to Assembly sittings or missions, constitutes justified grounds for adjourning the said acts or proceedings.

3. Public entities are under a duty, as laid down by law, to cooperate with Members of the Assembleia da República in the exercise of their functions.

#### Article 156

(Powers of Members of the Assembleia da República)

Members of the Assembleia da República have the following powers:

a) To submit draft revisions of the Constitution;

b) To submit Member's bills, draft Rules of Procedure, draft resolutions, particularly in relation to referenda, and draft decisions, and to request that they be scheduled for debate;

c) To take part and speak in parliamentary debates, as laid down in the Rules of Procedure;

d) To question the Government about any of its acts or those of the Public Administration, and to obtain answers within a reasonable time limit, save for the provisions of the law on matters concerning state secrets;

e) To request and obtain the elements, information and official publications they deem useful to the exercise of their mandate from the Government or the organs of any public entity;

f) To move the formation of parliamentary committees of inquiry;

g) Those set out in the Rules of Procedure.

#### Article 157

(Immunities)

1. Members of the Assembleia da República are not civilly or criminally liable for or subject to disciplinary proceedings in relation to their votes or the opinions they express in the exercise of their functions.

2. Members of the Assembleia da República may not appear as makers of declarations or accused persons without the Assembly's authorisation. In the latter case, the Assembly shall obligatorily decide in favour of authorisation when there are strong indications of the commission of a wilful crime punishable by imprisonment for a maximum term of more than three years.

3. No Member of the Assembleia da República may be detained, arrested or imprisoned without the Assembly's authorisation, save for a wilful crime punishable by the type of prison term referred to by the previous paragraph and *in flagrante delicto*.

4. In the event that criminal proceedings are brought against any Member of the Assembleia da República and he is definitively charged, the Assembly shall decide whether or not he must be suspended so that the proceedings can take their course. When the crime is of the type referred to in the previous paragraphs, the Assembly shall obligatorily decide to suspend the Member.

#### Article 158

(Rights and privileges)

Members of the Assembleia da República enjoy the following rights and privileges:

- a) Deferment of military, civic and civil defence service;
- b) Free transit and the right to a special passport during official trips abroad;
- c) A special identity card;
- d) The allowances stipulated by law.

#### Article 159

(Duties)

Members of the Assembleia da República are under the following duties:

- a) To attend plenary sittings and the meetings of any committees to which they belong;
- b) To exercise any offices in the Assembly and any functions to which they are appointed upon proposals by their parliamentary groups;
- c) To take part in voting.

#### Article 160

(Loss and resignation of seat)

1. Members of the Assembleia da República shall lose their seat in the event that:

- a) They become subject to any of the disqualifications or incompatibilities provided for by law;

- b) They do not take up their seat in the Assembly, or they exceed the number of failures to attend laid down in the Rules of Procedure;
  - c) They register as members of a party other than that for which they stood for election;
  - d) They are convicted by a court of any of the special crimes for which political officeholders may be held liable, which they commit in the exercise of their functions and for which they are sentenced to such loss, or they are convicted of participating in organisations that are racist or display a fascist ideology.
2. Members of the Assembleia da República may resign their seat by means of a written declaration.

## CHAPTER II

### Competences

#### Article 161

(Political and legislative competences)

The Assembleia da República has the competences:

- a) To pass amendments to the Constitution in accordance with Articles 284 to 289;
- b) To pass the political and administrative statutes of the autonomous regions and the laws governing the election of the members of the Legislative Assemblies of the autonomous regions;
- c) To make laws on all matters, save for those in which the Government has exclusive competence under the Constitution;
- d) To grant the Government authorisations to legislate;
- e) To grant the Legislative Assemblies of the autonomous regions the authorisations provided for in Article 227(1)(b) of the Constitution;
- f) To grant generic amnesties and pardons;
- g) Upon the submission of drafts by the Government, to pass the laws on the Major Options of the National Plans and the State Budget;
- h) To authorise the Government to contract and grant loans and engage in other lending operations, apart from floating debt operations, to define the general terms and conditions governing such loans and lending operations, and to set the maximum limit for guarantees to be given by the Government each year;
- i) To approve treaties, particularly those that concern Portugal's participation in international organisations, friendship, peace, defence, the rectification of borders or military affairs, as well as international agreements that address matters in which the Assembly has exclusive competence, or which the Government deems fit to submit to the Assembly for consideration;
- j) To propose to the President of the Republic that important issues of national interest be submitted to referendum;
- l) To authorise and confirm declarations of a state of siege or a state of emergency;
- m) To authorise the President of the Republic to declare war or to make peace;
- n) To pronounce, as laid down by law, on matters awaiting decision by European Union organs that concern the sphere of its exclusive legislative competence;

o) To perform the other functions that the Constitution and the law allocate to it.

## Article 162

(Competence to scrutinise)

In the exercise of its scrutiny functions the Assembleia da República has the competences:

- a) To scrutinise compliance with the Constitution and the laws and to consider the acts of the Government and the Administration;
- b) To consider the manner in which a declaration of a state of siege or a state of emergency has been applied;
- c) To consider executive laws, save for those made by exercise of the Government's exclusive legislative competence, and to consider the regional legislative decrees provided for in Article 227(1)(b), in both cases for the purpose of determining whether they should be amended or cease to be in force;
- d) To receive the accounts of the state and the other public entities stipulated by law, which shall be submitted by 31 December of the following year, together with the opinion of the Court of Auditors and the other elements needed to consider them;
- e) To consider reports on the execution of National Plans.

## Article 163

(Competences in relation to other entities and organs)

In relation to other entities and organs the Assembleia da República has the competences:

- a) To witness the installation of the President of the Republic;
- b) To consent to the President of the Republic's absence from Portuguese territory;
- c) To promote the bringing of charges against the President of the Republic for crimes committed in the exercise of his functions, and to decide whether to suspend members of the Government in the case provided for in Article 196;
- d) To consider the Government's Programme;
- e) To put motions of confidence or no confidence in the Government to the vote;
- f) As laid down by law, to monitor and consider Portugal's participation in the process of constructing the European Union;
- g) To elect, under the proportional representation system, five members of the Council of State and those members of the High Council of the Public Prosecution Service whom the Assembly has the competence to appoint;
- h) By a majority that is at least equal to two thirds of all Members of the Assembleia da República present and greater than an absolute majority of all the Members in full exercise of their office, to elect ten Justices of the Constitutional Court, the Ombudsman, the President of the Economic and Social Council, seven ordinary members of the High Council for the Judiciary, the members of the media regulatory entity and the members of all other constitutional entities whose appointment is the responsibility of the Assembleia da República by law;

i) As laid down by law, to supervise the involvement of military contingents and security forces abroad.

#### Article 164

(Exclusive legislative competence)

The Assembleia da República has exclusive competence to legislate on the following matters:

- a) Elections of the officeholders of the entities that exercise sovereignty;
- b) The regimes governing referenda;
- c) The organisation, modus operandi and procedure of the Constitutional Court;
- d) The organisation of national defence, the definition of the duties derived therefrom and the general bases of the organisation, modus operandi, re-equipping and discipline of the Armed Forces;
- e) The regimes governing states of siege and states of emergency;
- f) The acquisition, loss and re-acquisition of Portuguese citizenship;
- g) The definition of the limits of territorial waters, the exclusive economic zone and Portugal's rights to the adjacent seabeds;
- h) Political associations and parties;
- i) The bases of the education system;
- j) The election of members of the Legislative Assemblies of the autonomous regions;
- l) The election of officeholders of local government organs and other elections conducted by direct, universal suffrage, as well as elections to the remaining constitutional entities and organs;
- m) The statutes governing the officeholders of the entities that exercise sovereignty and of local government organs, as well as of the officeholders of the remaining constitutional organs and of those that are elected by direct, universal suffrage;
- n) Without prejudice to the powers of the autonomous regions, the creation, abolition and modification of local authorities and the regime governing them;
- o) Restrictions on the exercise of rights by full-time military personnel and militarised agents on active service and by agents of the security services and forces;
- p) The regime governing the appointment of members of European Union organs, with the exception of the Commission;
- q) The regime governing the Republic's intelligence system and state secrets;
- r) The general regime governing the drawing up and organisation of the budgets of the state, the autonomous regions and local authorities;
- s) The regime governing national symbols;
- t) The regime governing the finances of the autonomous regions;
- u) The regime governing the security forces;



v) The regime governing the organisational, administrative and financial autonomy of the President of the Republic's support services.

## Article 165

(Partially exclusive legislative competence)

1. Unless it also authorises the Government to do so, the Assembleia da República has exclusive competence to legislate on the following matters:

- a) People's legal status and capacity;
- b) Rights, freedoms and guarantees;
- c) The definition of crimes, sentences, security measures and the preconditions therefore, and criminal procedure;
- d) The general regime governing the punishment of disciplinary infractions, and of administrative offences and the respective procedure;
- e) The general regime governing requisitions and expropriations in the public interest;
- f) The bases of the social security system and the national health service;
- g) The bases of the system for protecting nature, the ecological balance and the cultural heritage;
- h) The general regime governing rural and urban rentals;
- i) The creation of taxes and the fiscal system, and the general regime governing duties and other financial contributions to public entities;
- j) The definition of the sectors of ownership of the means of production, including that of the basic sectors in which private enterprises and other entities of the same nature are forbidden to do business;
- l) The means and forms of intervention, expropriation, nationalisation and privatisation of and in relation to means of production and soils in the public interest, together with criteria for setting compensation in such cases;
- m) The regime governing economic and social development plans and the composition of the Economic and Social Council;
- n) The bases of the agricultural policy, including the setting of the maximum and minimum limits for farming units;
- o) The monetary system and the standard for weights and measures;
- p) The organisation and competences of the courts and the Public Prosecution Service and the statute governing the respective judges, as well as the organisation and competences of non-jurisdictional conflict settlement entities;
- q) The statute governing local authorities, including the regime governing local finances;
- r) Participation in the exercise of local government by residents' organisations;
- s) Public associations, guarantees available to users of the Administration, and the Administration's civil liability;
- t) The bases of the regime governing, and the scope of, the public service;

- u) The basic general elements of the statute governing public sector enterprises and foundations;
  - v) The definition of, and the regime governing, property in the public domain;
  - x) The regime governing means of production that are integrated into the cooperative and social sector of ownership;
  - z) The bases for town and country planning and urbanism;
  - aa) The regime governing municipal police forces and the form in which they are created.
2. Laws that grant authorisation to legislate must define the object, purpose, extent and duration of the authorisation, which may be extended.
  3. Without prejudice to their use in partial stages, authorisations to legislate may not be used more than once.
  4. Authorisations lapse upon the resignation or removal of the Government to which they were granted, at the end of the legislature, and upon the dissolution of the Assembleia da República.
  5. Authorisations granted to the Government by the Budget law shall comply with the provisions of the present Article and, when they address fiscal matters, shall only lapse at the end of the fiscal year to which they refer.

#### Article 166

(Form of acts)

1. The acts provided for in Article 161(a) shall take the form of constitutional laws.
2. The acts provided for in Articles 164(a) to (f), (h), (j), the first part of (l), (q) and (t) and 255 shall take the form of organic laws.
3. The acts provided for in Article 161(b) to (h) shall take the form of laws.
4. The acts provided for in Article 163(d) and (e) shall take the form of motions.
5. The remaining acts of the Assembleia da República shall take the form of resolutions, as shall those of the Standing Committee provided for in Article 179(3)(e) and (f).
6. Resolutions shall be published regardless of whether they are enacted.

#### Article 167

(Initiative in relation to laws and referenda)

1. The competence to initiate laws and referenda lies with Members of the Assembleia da República, parliamentary groups and the Government, and also, under the terms and conditions laid down by law, with groups of registered electors. The competence to initiate laws in relation to the autonomous regions lies with the respective Legislative Assemblies.
2. No Member of the Assembleia da República, parliamentary group, Legislative Assembly of an autonomous region or group of registered electors may submit bills or draft amendments which, during the then current financial year, involve an increase in the state's expenditure or a decrease in its revenues as set out in the Budget.

3. No Member of the Assembleia da República, parliamentary group or group of registered electors may submit draft referenda which, during the then current financial year, involve an increase in the state's expenditure or a decrease in its revenues as set out in the Budget.
4. Bills and draft referenda that are definitively rejected may not be resubmitted in the same legislative session, unless a new Assembleia da República is elected.
5. Bills and draft referenda that are not put to the vote in the legislative session in which they are submitted do not require resubmission in the following legislative session, save in the event that the legislature itself comes to an end.
6. Government bills and draft referenda lapse upon the resignation or removal of the Government.
7. Government bills that are initiated by Legislative Assemblies of the autonomous regions lapse at the end of the respective legislature, save for those whose general principles have already been passed, which only lapse upon the end of the legislature of the Assembleia da República.
8. Without prejudice to the bills and draft referenda to which they refer, when they are not withdrawn, parliamentary committees may submit replacement texts.

#### Article 168

(Discussion and voting)

1. Discussion of bills comprises a debate on the general principles and another on the details.
2. Voting comprises a vote on the general principles, a vote on the details and a final overall vote.
3. If the Assembly so decides, texts that are passed on the general principles shall be put to the vote on the details in committee, without prejudice to the Assembly's power to mandate the Plenary to put the details to the vote, or to the final overall vote by the Plenary.
4. The details of laws on the matters provided for in Articles 164(a) to (f), (h), (n) and (o) and 165(1)(q) shall obligatorily be put to the vote by the Plenary.
5. When put to the overall final vote, organic laws require passage by an absolute majority of all the Members of the Assembleia da República in full exercise of their office. The same majority is required for passage by the Plenary of the details of provisions concerning the territorial delimitation of regions provided for in Article 255.
6. Passage of the following requires a majority that is at least equal to two thirds of all Members present and greater than an absolute majority of all the Members in full exercise of their office:
  - a) The law concerning the media regulatory entity;
  - b) The norms that govern the provisions of Article 118(2);
  - c) The law that regulates the exercise of the right provided for in Article 121(2);
  - d) The provisions of the laws that regulate the matters referred to in Articles 148 and 149, and those concerning the system and method for electing the organs provided for in Article 239(3);
  - e) The provisions that regulate the subject matter of Article 164(o);
  - f) Those provisions of the political and administrative statutes of the autonomous regions that set out the matters which are included in the respective power to legislate.

## Article 169

### (Parliamentary consideration of legislative acts)

1. Save for those passed in the exercise of the Government's exclusive legislative competence, executive laws may, upon a motion made by ten Members of the Assembleia da República within the thirty days following their publication, excluding periods in which the Assembleia da República's proceedings are suspended, be subjected to consideration by the Assembleia da República with a view to causing them to cease to be in force or amending them.
2. Once a motion to consider an executive law drawn up under the terms of an authorisation to legislate has been made and in cases in which one or more draft amendments are submitted, the Assembly may suspend the force of all or part of the executive law until either the law that amends it is published, or all the draft amendments are rejected.
3. Such suspensions expire after ten plenary sittings if the Assembly has not pronounced itself finally by then.
4. If approval is given for the legislative act to cease to be in force, it shall so cease on the day on which the respective resolution is published in the *Diário da República*, and may not be republished during the same legislative session.
5. If a motion to consider has been made and the Assembly has not pronounced thereon, or in the event that the Assembly has decided to make amendments, but has not put the respective law to the vote by the end of the then current legislative session, and on condition that at least fifteen plenary sittings have passed, the consideration process shall be deemed to have lapsed.
6. Proceedings concerning the parliamentary consideration of executive laws enjoy priority, as laid down in the Rules of Procedure.

## Article 170

### (Urgent proceedings)

1. Upon the initiative of any Member of the Assembleia da República, any parliamentary group or the Government, the Assembly may declare any bill or draft resolution to be the object of urgent proceedings.
2. Upon the initiative of the Legislative Assemblies of the autonomous regions, the Assembly may also declare any government bill submitted by them to be the object of urgent proceedings.

## CHAPTER III

### Organisation and modus operandi

## Article 171

### (Legislature)

1. The duration of each legislature is four legislative sessions.
2. In cases of dissolution, the Assembly that is then elected shall commence a new legislature, the duration of which shall be extended at the beginning by the time needed to complete the period that corresponds to the legislative session that was in progress at the date of the election.

## Article 172

### (Dissolution)

1. The Assembleia da República may not be dissolved during the six months following its election, during the last six months of the President of the Republic's term of office, or while a state of siege or a state of emergency is in force.
2. Failure to comply with the provisions of the previous paragraph renders the dissolution decree legally nugatory.
3. Dissolution of the Assembly does not prejudice the continuation of its Members' term of office, or the competences of the Standing Committee, until the first sitting of the Assembly following the subsequent election.

## Article 173

### (Sitting following elections)

1. The Assembleia da República shall sit by right on the third day following the calculation of the general results of the election, or, in the case of elections called because a legislature is due to reach its term and the said third day falls before the legislature reaches that term, on the first day of the following legislature.
2. In the event that such a date falls when the Assembly is not in full session, it shall sit for the purposes of Article 175.

## Article 174

### (Legislative sessions, full sessions and calling)

1. Legislative sessions last for one year and begin on 15 September.
2. Without prejudice to suspensions decided by a two-thirds majority of all the Members of the Assembleia da República who are present, the Assembleia da República's normal parliamentary term is from 15 September to 15 June.
3. Following a Plenary decision to extend the normal parliamentary term, or on the initiative of the Standing Committee, or, in the event that the latter is unable to function and there is a serious emergency, on the initiative of more than half of all the Members, the Assembleia da República may function outside the term set out in the previous paragraph.
4. The President of the Republic may also call the Assembly on an extraordinary basis in order to address specific subjects.
5. When the Assembly so decides under the same terms as those set out in paragraph (2), committees may function regardless of whether the Assembly's Plenary is in full session.

## Article 175

### (The Assembly's internal competences)

The Assembleia da República has the competences:

- a) To draw up and pass its Rules of Procedure, in accordance with the Constitution;
- b) To elect its President and the remaining members of the Bureau by absolute majority of all the Members of the Assembleia da República in full exercise of their office. The four Vice-Presidents shall be elected upon proposals from the four largest parliamentary groups;
- c) To form the Standing Committee and the remaining committees.

#### Article 176

(Order of business of plenary sittings)

1. The President of the Assembleia da República shall set the order of business in accordance with the priority accorded to each matter in the Rules of Procedure, and without prejudice to the right of appeal to the Assembly's Plenary and to the competence of the President of the Republic provided for in Article 174(4).
2. The Government and parliamentary groups may request that priority be given to matters of national interest that require urgent resolution.
3. Every parliamentary group has the right to set the order of business of a certain number of sittings in accordance with a criterion that shall be laid down in the Rules of Procedure, in which respect the position of minority parties and parties that are not represented in the Government must always be safeguarded.
4. Legislative Assemblies of autonomous regions may request that priority be given to matters of regional interest that require urgent resolution.

#### Article 177

(Attendance by members of the Government)

1. Ministers have the right to attend the Assembleia da República's plenary sittings, at which they may be assisted or substituted by their Secretaries of State, and both have the right to speak, as laid down in the Rules of Procedure.
2. Sittings shall be scheduled at which members of the Government shall be present in order to respond to questions and requests for clarification from Members of the Assembleia da República. These sittings shall take place with the minimum frequency laid down in the Rules of Procedure and on dates that shall be set by agreement with the Government.
3. Members of the Government may ask to participate in committee proceedings, and must appear before committees when asked to do so.

#### Article 178

(Committees)

1. The Assembleia da República shall have the committees provided for in the Rules of Procedure, and may form ad hoc committees of inquiry or for any other given purpose.
2. Committees shall be composed in proportion to the number of seats each party holds in the Assembleia da República.

3. Petitions addressed to the Assembly shall be considered by the committees or by a committee formed specially for the purpose, which may consult the other committees with competence for the matter in question. In all cases any citizens may be asked to testify.

4. Without prejudice to their formation in accordance with the normal provisions, parliamentary committees of inquiry shall obligatorily be formed whenever a motion is made to that effect by one fifth of all the Members of the Assembleia da República in full exercise of their office, up to a limit of one per Member and per legislative session.

5. Parliamentary committees of inquiry have the investigative powers of the judicial authorities.

6. The chairmanships of the various committees shall be divided between the parliamentary groups in proportion to the number of Members of the Assembleia da República in each group.

7. Representatives of the Legislative Assembly of the proposing autonomous region may participate in the committee meetings at which regional legislative proposals are discussed, as laid down in the Rules of Procedure.

## Article 179

(Standing Committee)

1. Outside periods in which the Assembleia da República is in full session, during periods in which it is dissolved, and in the remaining cases provided for in the Constitution, the Assembleia da República's Standing Committee shall be in session.

2. The Standing Committee is chaired by the President of the Assembleia da República and is also composed of the Vice-Presidents and of Members of the Assembleia da República nominated by each of the parties, each in proportion to the number of seats it holds in the Assembly.

3. The Standing Committee has the competences to:

a) Scrutinise compliance with the Constitution and the laws and monitor the activities of the Government and the Administration;

b) Exercise the Assembly's powers in relation to the mandate of Members of the Assembleia da República;

c) Take steps to ensure that the Assembly is called whenever necessary;

d) Prepare the opening of the legislative session;

e) Consent to the President of the Republic's absence from Portuguese territory;

f) Authorise the President of the Republic to declare a state of siege or a state of emergency, declare war or make peace.

4. In the case provided for in subparagraph (f) of the previous paragraph, the Standing Committee shall take steps to ensure that the Assembly is called as soon as possible.

## Article 180

(Parliamentary groups)

1. The Members of the Assembleia da República who are elected for each party or coalition of parties may form a parliamentary group.
2. Each parliamentary group has the following rights:
  - a) To participate in Assembly committees in proportion to the number of its Members, and to nominate its representatives on those committees;
  - b) To be consulted when the order of business is set, and to appeal to the Plenary against that order of business;
  - c) To cause the holding of debates on issues of urgent current public interest, which the Government shall attend;
  - d) In each legislative session, to cause the holding of two debates on a matter of general or sectoral policy, by calling on the Government to attend the Assembly;
  - e) To ask the Standing Committee to take steps to ensure that the Plenary is convened;
  - f) To move the formation of parliamentary committees of inquiry;
  - g) To initiate legislation;
  - h) To make motions rejecting the Government's Programme;
  - i) To make motions of no confidence in the Government;
  - j) To be regularly and directly informed by the Government about the situation and progress of the main matters of public interest.
3. Each parliamentary group has the right to dispose of places in which to work at the Seat of the Assembly, together with technical and administrative staff of its choice, as laid down by law.
4. Members of the Assembleia da República who do not belong to any parliamentary group shall be ensured certain minimum rights and guarantees, as laid down in the Rules of Procedure.

## Article 181

(Assembly staff and specialists)

The Assembly and its committees shall be assisted in their work by a permanent body of technical and administrative staff, and by specialists who are on assignment or are temporarily contracted. The number of such staff and specialists shall be that which the President deems necessary.

## TITLE IV

Government

### CHAPTER I

Function and structure

## Article 182

(Definition)



The Government is the entity that conducts the country's general policy and the senior organ of the Public Administration.

#### Article 183

(Composition)

1. The Government comprises the Prime Minister, the Ministers and the Secretaries and Under Secretaries of State.
2. The Government may include one or more Deputy Prime Ministers.
3. The number, designation and responsibilities of the ministries and secretary-of-state's offices and the forms of coordination between them shall be decided in each case by the decree appointing the respective officeholders, or by executive law.

#### Article 184

(Council of Ministers)

1. The Council of Ministers comprises the Prime Minister, the Deputy Prime Ministers if any, and the Ministers.
2. The law may create specialised Councils of Ministers with competence for specific matters.
3. Secretaries and Under Secretaries of State may be required to take part in meetings of the Council of Ministers.

#### Article 185

(Substitution of members of the Government)

1. In the event that there is no Deputy Prime Minister, the Prime Minister shall be substituted during his absence or inability to perform his functions by the Minister he indicates to the President of the Republic, or, in the absence of such indication, by the Minister designated by the President of the Republic.
2. During his absence or inability to perform his functions, each Minister shall be substituted by the Secretary of State he indicates to the Prime Minister, or, in the absence of such indication, by the member of the Government designated by the Prime Minister.

#### Article 186

(Beginning and end of functions)

1. The Prime Minister's functions begin upon his installation and end when he is discharged by the President of the Republic.
2. The functions of the remaining members of the Government begin upon their installation and end when they or the Prime Minister are discharged.
3. The functions of Secretaries and Under Secretaries of State also end when their Minister is discharged.

4. In cases in which the Government resigns or is removed, the Prime Minister of the outgoing Government is discharged on the date of the appointment and installation of the new Prime Minister.

5. Until its Programme has been considered by the Assembleia da República, or after its resignation or removal, the Government shall limit itself to undertaking the acts that are strictly necessary in order to ensure the management of public affairs.

## CHAPTER II

### Formation and accountability

#### Article 187

##### (Formation)

1. The President of the Republic appoints the Prime Minister after consulting the parties with seats in Assembleia da República and in the light of the electoral results.

2. The President of the Republic appoints the remaining members of the Government upon a proposal from the Prime Minister.

#### Article 188

##### (The Government's Programme)

The Government's Programme shall set out the main political guidelines and the measures that are to be adopted or proposed in the various areas of governmental activity.

#### Article 189

##### (Collective responsibility)

Members of the Government are bound by the Government's Programme and by decisions taken by the Council of Ministers.

#### Article 190

##### (Government accountability)

The Government is accountable to the President of the Republic and the Assembleia da República.

#### Article 191

##### (Accountability of members of the Government)

1. The Prime Minister is accountable to the President of the Republic and, within the ambit of the Government's political responsibility, to the Assembleia da República.

2. Deputy Prime Ministers and Ministers are accountable to the Prime Minister and, within the ambit of the Government's political responsibility, to the Assembleia da República.

3. Secretaries and Under Secretaries of State are accountable to the Prime Minister and their Minister.

#### Article 192

(Consideration of the Government's Programme)

1. Within a time limit of at most ten days after its appointment, the Government shall submit its Programme to the Assembleia da República for consideration, by means of a Prime Ministerial statement.
2. If the Assembleia da República is not in full session, its President shall obligatorily call it for this purpose.
3. The debate may not last for more than three days, and until it is closed, any parliamentary group may make a motion rejecting the Programme, or the Government may request the passage of a confidence motion.
4. Rejection of the Government's Programme requires an absolute majority of all the Members of the Assembleia da República in full exercise of their office.

#### Article 193

(Request for confidence motion)

The Government may ask the Assembleia da República to pass a confidence motion in relation to a statement of general policy or to any matter of important national interest.

#### Article 194

(Motions of no confidence)

1. Upon the initiative of one quarter of all the Members of the Assembleia da República in full exercise of their office or of any parliamentary group, the Assembleia da República may put to the vote motions of no confidence in the Government, in relation to the latter's implementation of its Programme or to any matter of important national interest.
2. Motions of no confidence may only be considered forty-eight hours after they are made, in a debate that shall last for no more than three days.
3. If a motion of no confidence is not passed, its signatories may not make another such motion during the same legislative session.

#### Article 195

(Resignation or removal of the Government)

1. The following shall imply the resignation of the Government:
  - a) The beginning of a new legislature;
  - b) Acceptance by the President of the Republic of the Prime Minister's resignation;

- c) The Prime Minister's death or lasting physical incapacitation;
- d) Rejection of the Government's Programme;
- e) The failure of any confidence motion;
- f) Passage of a motion of no confidence by an absolute majority of all the Members of the Assembleia da República in full exercise of their office.

2. The President of the Republic may only remove the Government when it becomes necessary to do so in order to ensure the normal operation of the democratic institutions and after first consulting the Council of State.

#### Article 196

(Implementation of criminal liability of members of the Government)

1. No member of the Government may be detained, arrested or imprisoned without the authorisation of the Assembleia da República, save for a wilful crime punishable by imprisonment for a maximum term of more than three years and *in flagrante delicto*.
2. In the event that criminal proceedings are brought against any member of the Government and he is definitively charged, the Assembleia da República shall decide whether or not the member of the Government must be suspended so that the proceedings can take their course. In the case of a crime of the type referred to in the previous paragraph, the decision to suspend is obligatory.

### CHAPTER III

#### Competences

#### Article 197

(Political competences)

1. In the exercise of its political functions the Government has the competences:
  - a) In accordance with Article 140, to counter-sign acts of the President of the Republic;
  - b) To negotiate and finalise international conventions;
  - c) To approve international agreements whose approval is not within the competences of, or which have not been submitted to, the Assembleia da República;
  - d) To present and submit government bills and draft resolutions to the Assembleia da República;
  - e) In accordance with Article 115, to propose to the President of the Republic that matters of important national interest be subjected to referendum;
  - f) To pronounce on declarations of a state of siege or a state of emergency;
  - g) To propose to the President of the Republic that he declare war or make peace;
  - h) In accordance with Article 162(d), to submit the accounts of the state and of the other public entities laid down by law, to the Assembleia da República;

i) For the purpose of Articles 161(n) and 163(f) and in good time, to submit information concerning the process of constructing the European Union to the Assembleia da República;

j) To undertake the other acts that are entrusted to it by the Constitution or the law.

2. Government approval of international agreements shall take the form of a decree.

## Article 198

(Legislative competences)

1. In the exercise of its legislative functions the Government has the competences to:

a) Make executive laws on matters that do not fall within the exclusive competence of the Assembleia da República;

b) Subject to authorisation by the Assembleia da República, make executive laws on matters that fall within the latter's partially exclusive competence;

c) Make executive laws that develop the principles or the general bases of the legal regimes contained in laws that limit themselves to those principles or general bases.

2. The Government has the exclusive competence to legislate on matters that concern its own organisation and modus operandi.

3. The executive laws provided for in paragraph (1)(b) and (c) must make express mention of the law granting authorisation to legislate, or the basic law, under which they are passed.

## Article 199

(Administrative competences)

In the exercise of its administrative functions the Government has the competences:

a) To draw up Plans on the basis of the respective Major Options, and to cause them to be implemented;

b) To cause the State Budget to be executed;

c) To make the regulations needed for the proper implementation of laws;

d) To direct the state's departments and services and all the activities under its direct administration, civil and military, to superintend the indirect administration, and to exercise oversight over the latter and over the autonomous administration;

e) To undertake all the acts that the law requires in relation to staff and agents of the state and of other public sector legal persons;

f) To defend democratic legality;

g) To undertake all the acts and make all the dispositions needed to promote economic and social development and fulfil collective needs.

## Article 200

(Competences of the Council of Ministers)

1. The Council of Ministers has the competences:

- a) To define the general lines of government policy and of the implementation thereof;
- b) To decide whether to ask the Assembleia da República to pass confidence motions; c)

To approve government bills and draft resolutions;

d) To pass executive laws, and to approve international agreements that are not submitted to the Assembleia da República;

e) To approve Plans;

f) To pass Government acts that involve increases or reductions in public revenues or expenditure;

g) To decide other matters that are within the Government's competences and are allocated to it by law or submitted to it by the Prime Minister or any Minister.

2. Specialised Councils of Ministers exercise the competences that are allocated to them by law or delegated to them by the Council of Ministers.

Article 201

(Competences of members of the Government)

1. The Prime Minister has the competences:

- a) To direct the Government's general policy and to coordinate and orient the actions of all the Ministers;
- b) To direct the work of the Government and its general relations with the other state entities and organs;
- c) To inform the President of the Republic about matters concerning the conduct of the country's internal and external policy;
- d) To exercise the other functions that are allocated to him by the Constitution and the law.

2. Ministers have the competences:

- a) To implement the policy that has been set for their Ministries;
- b) Within the scope of their respective Ministries, to conduct the relations of a general nature between the Government and the other state entities and organs.

3. Executive laws and the other decrees issued by the Government shall be signed by the Prime Minister and the Ministers with competence for the matter in question.

TITLE V

Courts

CHAPTER I

General principles

## Article 202

(Jurisdictional function)

1. The courts are the entities that exercise sovereignty with the competence to administer justice in the name of the people.
2. In administering justice the courts are responsible for ensuring the defence of those citizens' rights and interests that are protected by law, repressing breaches of democratic legality and deciding conflicts between interests, public and private.
3. In the exercise of their functions the courts have the right to the assistance of the other authorities.
4. The law may institutionalise non-jurisdictional instruments and forms of settling conflicts.

## Article 203

(Independence)

The courts are independent and subject only to the law.

## Article 204

(Compliance with the Constitution)

In matters that are submitted for judgement the courts may not apply norms that contravene the provisions of the Constitution or the principles enshrined therein.

## Article 205

(Court decisions)

1. Court decisions that are not merely administrative in nature shall set out their grounds in the form laid down by law.
2. Court decisions are binding on all public and private entities and prevail over the decisions of any other authorities.
3. The law shall regulate the terms under which court decisions are executed in relation to any authority, and shall lay down the sanctions to be imposed on those responsible for any failure to execute them.

## Article 206

(Court hearings)

Court hearings are public, save when, in order to safeguard personal dignity or public morals or to ensure its own normal operation, the court itself decides otherwise in a written order that sets out the grounds for its decision.

## Article 207

(Juries, public participation and technical advice)

1. In the cases and with the composition laid down by law, and particularly when the prosecution or the defence so requests, a jury shall participate in the trial of serious crimes, save those involving terrorism or highly organised crime.
2. The law may provide for the participation of lay magistrates in judgements concerning labour-related matters, public health infractions, minor offences, the execution of sentences or other cases that justify special consideration of the social values that have been infringed.
3. The law may also provide for the participation of technically qualified advisors in the trial of certain matters.

## Article 208

(Legal representation)

The law shall ensure that lawyers enjoy the immunities needed to exercise their mandates and shall regulate legal representation as an element that is essential to the administration of justice.

## CHAPTER II

Organisation of the courts

### Article 209

(Categories of court)

1. In addition to the Constitutional Court, there shall be the following categories of court:
  - a) The Supreme Court of Justice and the courts of law of first and second instance;
  - b) The Supreme Administrative Court and the remaining administrative and tax courts;
  - c) The Court of Auditors.
2. There may be maritime courts, arbitration tribunals and justices of the peace.
3. The law shall lay down the cases and forms in which the courts provided for in the previous paragraphs may separately or jointly be constituted as conflict-resolution tribunals.
4. Without prejudice to the provisions concerning courts martial, the existence of courts with the exclusive competence to try certain categories of crime is prohibited.

### Article 210

(Supreme Court of Justice and instances)

1. Without prejudice to the specific competence of the Constitutional Court, the Supreme Court of Justice is the senior organ in the hierarchy of the courts of law.
2. The President of the Supreme Court of Justice is elected by its Justices.



3. As a rule the courts of first instance are the district courts, and the status of the courts referred to in paragraph (2) of the following Article is equivalent to that of the latter.

4. As a rule the courts of second instance are the Courts of Appeal.

5. The Supreme Court of Justice shall function as a court of instance in the cases laid down by law.

#### Article 211

(Competence and specialisation of courts of law)

1. The courts of law are the general courts in civil and criminal matters and shall exercise jurisdiction in every area that is not allocated to other judicial orders.

2. There may be courts of first instance that have specific competences or are specialised in the trial of certain matters.

3. The composition of courts of any instance that try crimes of a strictly military nature shall include one or more military judges, as laid down by law.

4. The Courts of Appeal and the Supreme Court of Justice may operate in specialised sections.

#### Article 212

(Administrative and tax courts)

1. Without prejudice to the specific competence of the Constitutional Court, the Supreme Administrative Court is the senior organ in the hierarchy of administrative and tax courts.

2. The President of the Supreme Administrative Court is elected by its Justices from among their number.

3. The administrative and tax courts have the competence to try contested actions and appeals whose object is to settle disputes arising from administrative and fiscal legal relations.

#### Article 213

(Courts martial)

For as long as a state of war is in effect, there shall be courts martial with the competence to try crimes of a strictly military nature.

#### Article 214

(Court of Auditors)

1. The Court of Auditors is the senior organ for the scrutiny of the legality of public expenditure and for judging the accounts which the law requires to be submitted to it. It particularly has the competence to:

a) Give an opinion on the General State Accounts, including the social security accounts;

b) Give an opinion on the accounts of the Azores and Madeira Autonomous Regions;

- c) Enforce liability for financial infractions, as laid down by law;
  - d) Exercise the other competences allocated to it by law.
2. Without prejudice to the provisions of Article 133(m), the term of office of the President of the Court of Auditors is four years.
  3. The Court of Auditors may operate in a decentralised manner, in regional sections, as laid down by law.
  4. In the Azores and Madeira Autonomous Regions there shall be sections of the Court of Auditors with full competence for the matter in question in the respective region, as laid down by law.

## CHAPTER III

### Status and role of judges

#### Article 215

##### (Judges of the courts of law)

1. The judges of the courts of law form a single body and shall be governed by a single statute.
2. The law shall lay down the requisites for, and the rules governing, the recruitment of judges of the courts of law of first instance.
3. The criterion that prevails in the recruitment of judges of the courts of law of second instance shall be that of merit, to be determined by a competitive curricular selection process between judges of first instance.
4. Access to the bench of the Supreme Court of Justice shall be determined by a competitive curricular selection process that is open to judges, public prosecutors and other meritorious jurists, as laid down by law.

#### Article 216

##### (Guarantees and incompatibilities)

1. Judges enjoy security of tenure and may not be transferred, suspended, retired or removed from office except in the cases provided for by law.
2. Save for the exceptions laid down by law, judges may not be held personally liable for their decisions.
3. Serving judges may not perform any other public or private function, save for unremunerated teaching or academic legal research functions, as laid down by law.
4. Serving judges may not be appointed to limited-term positions unrelated to the work of the courts without the authorisation of the competent High Council.
5. The law may lay down other incompatibilities with the exercise of the function of judge.

#### Article 217

(Appointment, assignment, transfer and promotion of judges)

1. The High Council for the Judiciary has the competence to appoint, assign, transfer and promote judges of the courts of law and exercise discipline over them, as laid down by law.
2. The respective High Council has the competence to appoint, assign, transfer and promote judges of the administrative and tax courts and exercise discipline over them, as laid down by law.
3. The law shall define the rules governing the assignment, transfer and promotion of judges of the remaining courts and the exercise of discipline over them, and shall lay down the competences to do so, while safeguarding the guarantees provided for in the Constitution.

Article 218

(High Council for the Judiciary)

1. The High Council for the Judiciary is chaired by the President of the Supreme Court of Justice and also comprises the following ordinary members:
  - a) Two appointed by the President of the Republic;
  - b) Seven elected by the Assembleia da República;
  - c) Seven judges elected by their peers in harmony with the principle of proportional representation.
2. The rules governing guarantees enjoyed by judges are applicable to all the ordinary members of the High Council for the Judiciary.
3. The law may provide for court officials to be members of the High Council for the Judiciary, to be elected by their peers. Their participation shall be restricted to the discussion and voting on matters concerning the assessment of the professional merit of, and the exercise of discipline over, court officials.

## CHAPTER IV

Public Prosecution Service

Article 219

(Functions and statute)

1. The Public Prosecution Service has the competence to represent the state and defend the interests laid down by law, and, subject to the provisions of the following paragraph and as laid down by law, to participate in the implementation of the criminal policy defined by the entities that exercise sovereignty, exercise penal action in accordance with the principle of legality, and defend democratic legality.
2. The Public Prosecution Service shall have its own statute and autonomy, as laid down by law.
3. The law shall create special forms of advice to be provided to the Public Prosecution Service in cases involving strictly military crimes.
4. The agents of the Public Prosecution Service are accountable judicial officers, shall form part of and be subject to a hierarchy, and may not be transferred, suspended, retired or removed from office except in the cases provided for by law.
5. The competences to appoint, assign, transfer and promote agents of the Public Prosecution Service and exercise discipline over them pertain to the Prosecutor General's Office.

## Article 220

### (Prosecutor General's Office)

1. The Prosecutor General's Office is the senior organ of the Public Prosecution Service and shall have the composition and competences laid down by law.
2. The Prosecutor General's Office is presided over by the Prosecutor General and encompasses the High Council of the Public Prosecution Service, which includes members elected by the Assembleia da República and members elected by the public prosecutors from among their number.
3. Without prejudice to the provisions of Article 133(m), the Prosecutor General's term of office is six years.

## TITLE VI

### Constitutional Court

## Article 221

### (Definition)

The Constitutional Court is the court with the specific competence to administer justice in matters of a constitutional-law nature.

## Article 222

### (Composition and status and role of Justices)

1. The Constitutional Court is composed of thirteen Justices, ten of whom are appointed by the Assembleia da República and three co-opted by those ten.
2. Six of the Justices who are appointed by the Assembleia da República or are co-opted must obligatorily be chosen from among the judges of the remaining courts, and the others from among jurists.
3. The term of office of the Justices of the Constitutional Court is nine years and is not renewable.
4. The President of the Constitutional Court is elected by its Justices.
5. Constitutional Court Justices enjoy the same guarantees of independence, security of tenure, impartiality and absence of personal liability and are subject to the same incompatibilities as the judges of the remaining courts.
6. The law shall lay down the immunities and other rules concerning the status and role of Constitutional Court Justices.

## Article 223

### (Competences)

1. The Constitutional Court has the competence to consider unconstitutionality and illegality, in accordance with Articles 277 *et sequitur*.

2. The Constitutional Court also has the competences:

a) To verify the death and declare the permanent physical incapacity of the President of the Republic, and to verify cases in which he is temporarily prevented from exercising his functions;

b) To verify loss of the office of President of the Republic in the cases provided for in Article 129(3) and Article 130(3);

c) As the court of final instance, to judge the proper observance and validity of electoral procedural acts, as laid down by law;

d) For the purposes of Article 124(3), to verify the death, and to declare the incapacity to exercise the function of President of the Republic, of any candidate therefore;

e) To verify the legality of the formation of political parties and coalitions thereof, to assess the legality of their names, initials and symbols, and to order their abolition, in accordance with the Constitution and the law;

f) To verify in advance the constitutionality and legality of national, regional and local referenda, including consideration of the requisites in relation to the respective universe of electors;

g) At the request of Members, as laid down by law, to judge appeals concerning losses of seat in, and elections conducted by, the Assembleia da República and the Legislative Assemblies of the autonomous regions;

h) To judge those actions involving challenges to elections to, and to decisions taken by, political party organs, which by law are subject to appeal.

3. The Constitutional Court also has the competence to exercise the other functions that are allocated to it by the Constitution and the law.

## Article 224

(Organisation and *modus operandi*)

1. The law shall lay down the rules governing the Constitutional Court's seat, organisation and *modus operandi*.

2. Save for the purpose of the abstract review of constitutionality and legality, the law may require the Constitutional Court to operate in sections.

3. The law shall regulate appeals to the Plenary of the Constitutional Court against contradictory decisions by different sections in the field of the application of the same norm.

## TITLE VII

### Autonomous Regions

## Article 225

(Political and administrative system of the Azores and Madeira)

1. The grounds for the specific political and administrative regime of the Azores and Madeira archipelagos are their geographic, economic, social and cultural characteristics and the island populations' historic aspirations to autonomy.
2. The autonomy of the regions is designed to ensure democratic participation by citizens, economic and social development and the promotion and defence of regional interests, as well as the strengthening of national unity and of the bonds of solidarity between all Portuguese.
3. Regional political and administrative autonomy does not affect the integrity of the sovereignty of the state and shall be exercised within the overall framework of the Constitution.

#### Article 226

(Statutes and electoral laws)

1. Draft political and administrative statutes and government bills concerning the election of members of the Legislative Assemblies of the autonomous regions are drawn up by those Legislative Assemblies and sent to the Assembleia da República for discussion and passage or rejection.
2. If the Assembleia da República rejects or amends such a draft or bill, it shall return it to the respective Legislative Assembly for consideration and the issue of an opinion.
3. Once the opinion has been drawn up, the Assembleia da República shall put the draft or bill to the final discussion and vote.
4. The regime provided for in the previous paragraphs is applicable to amendments to both the political and administrative statutes and laws regarding the election of members of the Legislative Assemblies of the autonomous regions.

#### Article 227

(Powers of autonomous regions)

1. The autonomous regions are territorial legal persons and have the following powers, which shall be defined in their statutes:
  - a) To legislate within the ambit of the region on those matters that are set out in the respective political and administrative statute and are not within the exclusive competence of entities that exercise sovereignty;
  - b) Subject to authorisation by the Assembleia da República, to legislate on matters that are within that Assembly's partially exclusive legislative competence, with the exception of the matters provided for in Article 165(1)(a) to (c), the first part of subparagraph (d), subparagraphs (f) and (i), the second part of subparagraph (m) and subparagraphs (o), (p), (q), (s), (t), (v), (x) and (aa);
  - c) Within the ambit of the region, to develop the principles or the general bases of the legal regimes contained in laws that limit themselves thereto;
  - d) To regulate regional legislation and those laws issued by entities that exercise sovereignty that do not reserve the respective regulatory power to the latter;
  - e) To initiate statutes, and to initiate legislation on matters concerning the election of members of the respective Legislative Assemblies pursuant to Article 226;
  - f) To initiate legislation in accordance with Article 167(1), by submitting regional government bills and the respective draft amendments to the Assembleia da República;

- g) To exercise their own executive power;
- h) To administer and dispose of their assets and to make acts and contracts in which they have an interest;
- i) To exercise their own power to tax as laid down by law, and to adapt the national fiscal system to regional specificities under the terms of framework laws of the Assembleia da República;
- j) In accordance with the terms of their statutes and the law governing the finances of the autonomous regions, to dispose of the tax revenues collected or generated in the autonomous region, as well as of a part of the state's tax revenues determined in accordance with a principle that ensures effective national solidarity, and of other revenues that are allocated to them, and to appropriate those revenues to their expenditure;
- l) To create and abolish local authorities and modify the respective area, as laid down by law;
- m) To exercise the power of oversight over local authorities;
- n) To raise rural settlements to the category of town or city;
- o) To superintend departments and services, public institutes and public sector and nationalised enterprises that pursue their activities exclusively or predominantly in the region, and in other cases in which the regional interest justifies it;
- p) To pass the regional economic and social development plan, the regional budget and the region's accounts and to take part in drawing up the National Plans;
- q) Without prejudice to the provisions of Article 165(1)(d), to define administrative offences and the respective sanctions;
- r) To participate in the definition and implementation of the fiscal, monetary, financial and exchange policies in such a way as to ensure regional control of the means of payment in circulation and the financing of the investments needed for the region's economic and social development;
- s) To participate in the definition of policies concerning territorial waters, the exclusive economic zone and the adjacent seabeds;
- t) To participate in the negotiation of international treaties and agreements that directly concern them, and to share in the benefits derived therefrom;
- u) To establish cooperation with foreign regional entities and to participate in organisations whose purpose is to foster inter-regional dialogue and cooperation, in accordance with the guidelines defined by the entities that exercise sovereignty with competence in relation to foreign policy matters;
- v) On their own initiative, or when consulted by entities that exercise sovereignty, to pronounce on issues that are within the latter's competences and concern the autonomous regions, as well as, in matters that concern their specific interests, on the definition of the Portuguese state's positions within the ambit of the process of constructing the European Union;
- x) To participate, when matters that concern them are at stake, in the process of constructing the European Union by means of their representation in the respective regional institutions and in the delegations involved in European Union decision-making processes, as well as to transpose Union legal acts in accordance with Article 112.

2. Regional government bills seeking authorisation to legislate must be accompanied by the draft regional legislative decree for which authorisation is sought. The provisions of Article 165(2) and (3) shall apply to the corresponding laws granting authorisation to legislate.

3. The authorisations referred to in the previous paragraph lapse upon the end of the legislature or the dissolution of either the Assembleia da República, or the Legislative Assembly to which they were granted.

4. The regional legislative decrees provided for in paragraph (1)(b) and (c) must expressly invoke the respective authorisation laws or basic laws. The provisions of Article 169 are applicable to the former, *mutatis mutandis*.

#### Article 228

(Legislative autonomy)

1. The legislative autonomy of the autonomous regions applies to the matters that are set out in the respective political and administrative statute and do not fall within the exclusive competence of the entities that exercise sovereignty.

2. In the absence of specific regional legislation on matters that do not fall within the exclusive competence of the entities that exercise sovereignty, the current legal norms shall apply in the autonomous regions.

#### Article 229

(Cooperation between entities that exercise sovereignty and regional organs)

1. In cooperation with the self-government organs, the entities that exercise sovereignty shall ensure the economic and social development of the autonomous regions, with a particular view to the correction of the inequalities derived from insularity.

2. The entities that exercise sovereignty shall always consult the regional government organs in relation to questions that fall within their own competences and concern the autonomous regions.

3. The financial relations between the Republic and the autonomous regions shall be regulated by the law provided for in Article 164(t).

4. The Government of the Republic and the Regional Governments may agree other forms of cooperation, particularly those involving acts entailing the delegation of competences. The corresponding transfer of financial resources and the applicable scrutiny mechanisms shall be established in each case.

#### Article 230

(Representatives of the Republic)

1. For each of the autonomous regions there is a Representative of the Republic, whom the President of the Republic appoints and discharges from office after first consulting the Government.

2. Save in the case of discharge from office, the duration of a Representative of the Republic's term of office is the same as that of the President of the Republic and ends upon installation of a new Representative of the Republic.

3. In the event that the office falls vacant, as well as in cases in which the Representative of the Republic is absent or unable to perform his functions, he shall temporarily be substituted by the President of the Legislative Assembly.

#### Article 231



(Self-government organs of autonomous regions)

1. The self-government organs of each autonomous region are the Legislative Assembly and the Regional Government.
2. Legislative Assemblies are elected by universal, direct and secret suffrage in harmony with the principle of proportional representation.
3. Each Regional Government is politically accountable to the Legislative Assembly of the autonomous region, and the Representative of the Republic appoints its president in the light of the results of the elections.
4. The Representative of the Republic appoints and discharges the remaining members of the Regional Government upon the proposal of the respective president.
5. Regional Governments are installed before the Legislative Assembly of the autonomous region.
6. Regional Governments have exclusive competence in matters concerning their own organisation and *modus operandi*.
7. The status and role of the officeholders of the self-government organs of the autonomous regions shall be defined in the respective political and administrative statute.

Article 232

(Competences of Legislative Assemblies of autonomous regions)

1. The Legislative Assembly of the autonomous region shall have the exclusive competence to exercise the powers referred to in Article 227(1)(a), (b) and (c), the second part of subparagraph (d), subparagraph (f), the first part of subparagraph (i) and subparagraphs (l), (n) and (q), as well as to pass the regional budget, the region's economic and social development plan and accounts, and to adapt the national fiscal system to the region's specificities.
2. The Legislative Assembly of the autonomous region has the competence to submit draft regional referenda by means of which the President of the Republic may decide to call upon the citizens who are registered to vote in the respective territory to directly and bindingly pronounce on questions that are of important specific interest to the region. The provisions of Article 115 apply to such referenda, *mutatis mutandis*.
3. The Legislative Assembly of the autonomous region has the competence to draft and pass its rules of procedure in accordance with the Constitution and the respective political and administrative statute.
4. The provisions of Articles 175(c), 178(1) to (6) and 179 except for paragraphs (3)(e) and (f) and (4), and of Article 180 apply, *mutatis mutandis*, to the Legislative Assemblies of the autonomous regions and the respective parliamentary groups.

Article 233

(Signature and veto of Representatives of the Republic)

1. The competence to sign regional legislative decrees and regional regulatory decrees and order their publication pertains to the Representative of the Republic.
2. Within a time limit of fifteen days counting from the receipt of any decree of the Legislative Assembly of the autonomous region that is sent to him for signature, or of the publication of the decision in which the Constitutional Court refrains from pronouncing the unconstitutionality of any norm contained therein,

the Representative of the Republic must sign the decree, or exercise the right of veto and request that the legislative act be reconsidered by means of a message setting out the grounds therefore.

3. If the Legislative Assembly of the autonomous region confirms its vote by an absolute majority of all its members in full exercise of their office, the Representative of the Republic must sign the legislative act within a time limit of eight days counting from its receipt.

4. Within a time limit of twenty days counting from the receipt of any decree of the Regional Government that is sent to him for signature, the Representative of the Republic must either sign it, or refuse to sign it and inform the Regional Government in writing of the reasons for doing so, whereupon the Regional Government may convert the decree into a bill for submission to the Legislative Assembly of the autonomous region.

5. The Representative of the Republic shall also exercise the right of veto pursuant to Articles 278 and 279.

#### Article 234

(Dissolution and removal of self-government organs)

1. After first consulting the Council of State and the parties with seats in them, the President of the Republic may dissolve the Legislative Assemblies of the autonomous regions.

2. Dissolution of the Legislative Assembly of an autonomous region causes the removal of the Regional Government, which shall then be limited to undertaking the acts that are strictly necessary in order to ensure the management of public affairs until the new government takes office following elections.

3. Dissolution of the Legislative Assembly of an autonomous region does not prejudice the continuation of its members' term of office, or the competences of the Standing Committee, until the Assembly's first sitting following the subsequent elections.

### TITLE VIII

Local government

#### CHAPTER I

General principles

#### Article 235

(Local authorities)

1. The democratic organisational structure of the state includes the existence of local authorities.

2. Local authorities are territorial legal persons, have representative organs and seek to pursue the interests of their populations.

#### Article 236

(Categories of local authority and administrative division)

1. The local authorities on the mainland are parishes, municipalities and administrative regions.

2. The Azores and Madeira autonomous regions comprise parishes and municipalities.
3. In large urban areas and on the islands the law may establish other forms of territorial local government organisation in accordance with their specific conditions.
4. The administrative division of the territory shall be established by law.

#### Article 237

##### (Administrative decentralisation)

1. The law shall regulate the responsibilities and organisation of local authorities and the competences of their organs, in harmony with the principle of administrative decentralisation.
2. Each local authority assembly has the competence to exercise the powers allocated to it by law, including the power to pass the options of its plan and budget.
3. Municipal police forces shall cooperate in maintaining public order and protecting local communities.

#### Article 238

##### (Local assets and finances)

1. Local authorities shall have their own assets and finances.
2. The law shall establish the local finance regime, which shall seek to ensure that public resources are justly shared between the state and local authorities and the necessary correction of inequalities between local authorities of the same category.
3. Local authorities' own income shall obligatorily include that derived from the management of their assets and that charged for the use of their services.
4. Local authorities may have the power of taxation in the cases and under the terms laid down by law.

#### Article 239

##### (Decision-making and executive organs)

1. The organisational structure of local authorities comprises an elected assembly with decision-making powers, and a collegial executive organ that is accountable to the assembly.
2. Assemblies are elected by universal, direct and secret suffrage of the citizens who are registered to vote in the area of the respective local authority, in accordance with the proportional representation system.
3. The collegial executive organ shall be composed of an adequate number of members. The first candidate on the list that receives the most votes cast for the assembly or the executive, depending on the solution adopted by law, shall be appointed chairman. The law shall also regulate the electoral process, the requisites for the formation and removal of the collegial executive organ, and its modus operandi.
4. Nominations for elections to local authority organs may be submitted by political parties, either individually or in coalition, or by groups of registered electors, as laid down by law.

## Article 240

### (Local referenda)

1. In the cases, under the terms and with the efficacy laid down by law, local authorities may submit matters that are included in the competences of their organs to referendum the respective registered electors.
2. The law may attribute the right to initiate referenda to registered electors.

## Article 241

### (Regulatory power)

Within the limits laid down by the Constitution, the laws, and regulations issued by a higher category of local authority or by the authorities with the power of oversight, local authorities have their own regulatory power.

## Article 242

### (Administrative oversight)

1. Administrative oversight of local authorities consists of the verification of the local authority organs' compliance with the law and shall be exercised in the cases and in accordance with the forms laid down by law.
2. Oversight measures that restrict local autonomy shall be preceded by an opinion from a local authority organ, under terms to be laid down by law.
3. Local authority organs may only be dissolved on the grounds of serious illegal acts or omissions.

## Article 243

### (Local authority staff)

1. Local authorities have their own staff rosters, as laid down by law.
2. The regime governing state staff and agents is applicable to local government staff and agents, *mutatis mutandis*, as laid down by law.
3. Without prejudice to the autonomy of local authorities, the law shall define the forms in which the state provides them with technical support and support in human resources.

## CHAPTER II

### Parishes

## Article 244

### (Parish organs)

The representative organs of a parish are the parish assembly and the parish council.

#### Article 245

(Parish assemblies)

1. The parish assembly is the parish's decision-making organ.
2. The law may require that the parish assembly in parishes with a very small population be replaced by the plenary meeting of registered electors.

#### Article 246

(Parish councils)

The parish council is the parish's collegial executive organ.

#### Article 247

(Associations)

Parishes may, as laid down by law, form associations to administer common interests.

#### Article 248

(Delegation of tasks)

Parish assemblies may delegate administrative tasks that do not involve the exercise of powers of authority to residents' organisations.

### CHAPTER III

#### Municipalities

#### Article 249

(Changes to municipalities)

Municipalities are only created or abolished and their area is only altered by law, following prior consultation of the organs of the local authorities in question.

#### Article 250

(Municipal organs)

The representative organs of a municipality are the municipal assembly and the municipal council.

#### Article 251

(Municipal assemblies)

The municipal assembly is the municipality's decision-making organ and is composed of directly elected members and the chairmen of the municipality's parish councils. The number of directly elected members shall be greater than that of the chairmen of the parish councils.

#### Article 252

(Municipal councils)

The municipal council is the municipality's collegial executive organ.

#### Article 253

(Associations and federations)

In order to administer common interests, municipalities may form associations and federations, to which the law may grant specific responsibilities and competences.

#### Article 254

(Share in revenue from direct taxes)

1. Municipalities shall share in the revenue from direct taxes by right and as laid down by law.
2. Municipalities shall have their own tax revenues, as laid down by law.

### CHAPTER IV

Administrative regions

#### Article 255

(Creation by law)

The administrative regions shall be created simultaneously by means of a law, which shall define their powers and the composition, competences and modus operandi of their organs and may establish differences between the regime applicable to each administrative region.

#### Article 256

(*De facto* institution)

1. The *de facto* institution of the administrative regions by means of the passage of the individual laws instituting each one shall depend on the law provided for in the previous Article, and on an affirmative

vote by the majority of the registered electors who cast their votes in a direct national ballot covering each of the regional areas.

2. In the event that in response to the question with a national scope on the *de facto* institution of the administrative regions, the majority of the registered electors who participate do not pronounce themselves in favour, the answers to questions which are put in relation to each region that is created by the law shall not produce effects.

3. The consultations of registered electors provided for in the previous paragraphs shall take place under the terms of an organic law and by decision of the President of the Republic, upon a proposal from the Assembleia da República. The system derived from Article 115 shall apply *mutatis mutandis*.

#### Article 257

##### (Responsibilities)

Administrative regions are particularly charged with the direction of public departments and services and with tasks involving the coordination and provision of support for the work of the municipalities, with respect for the latter's autonomy and without limiting their powers.

#### Article 258

##### (Planning)

Administrative regions draw up regional plans and take part in the drawing up of national plans.

#### Article 259

##### (Regional organs)

The representative organs of an administrative region are the regional assembly and the regional council.

#### Article 260

##### (Regional assemblies)

The regional assembly is the region's decision-making organ, and is composed of directly elected members, and by a smaller number of members who are elected in accordance with the proportional representation system and D'Hondt's highest-average rule by an electoral college formed by those members of the same area's municipal assemblies who were appointed by direct election.

#### Article 261

##### (Regional councils)

The regional council is the region's collegial executive organ.

#### Article 262

(Government representatives)

The Council of Ministers may appoint a Government representative to each region. These representatives shall also exercise their competences in relation to the local authorities in the respective area.

## CHAPTER V

### Residents' organisations

#### Article 263

(Formation and area)

1. In order to intensify local people's participation in local administrative life, residents of areas smaller than that of the respective parish may form residents' organisations.
2. Upon its own initiative, or at the request of residents' committees or a significant number of residents, the parish assembly shall delimit the territorial areas of the organisations referred to in the previous paragraph and shall resolve any conflicts that arise therefrom.

#### Article 264

(Structure)

1. The law shall lay down the structure of residents' organisations, which shall comprise a residents' assembly and a residents' committee.
2. The residents' assembly is composed of the residents registered in the parish census.
3. The residents' assembly elects the residents' committee by secret ballot, and may dismiss it freely.

#### Article 265

(Rights and competences)

1. Residents' organisations have the right:
  - a) To petition local authorities in relation to administrative matters that are of interest to the residents;
  - b) Via their representatives, to participate without vote in the parish assembly.
2. Residents' organisations have the competence to perform the tasks that the law confers on them or that their parish organs delegate to them.

## TITLE IX

### Public Administration

#### Article 266

(Fundamental principles)



1. The Public Administration shall seek to pursue the public interest, with respect for all those citizens' rights and interests that are protected by law.
2. Administrative organs and agents are subject to the Constitution and the law, and in the exercise of their functions must act with respect for the principles of equality, proportionality, justice, impartiality and good faith.

#### Article 267

##### (Structure of the Administration)

1. The Public Administration shall be structured in such a way as to avoid bureaucratisation, bring departments and services closer to local people and ensure that interested parties take part in its effective management, particularly via public associations, residents' organisations and other forms of democratic representation.
2. For the purpose of the previous paragraph and without prejudice to the necessary efficacy and unity of the Administration's work and the management, superintendence and oversight powers of the competent organs, the law shall lay down adequate forms of administrative decentralisation and devolution.
3. The law may create independent administrative entities.
4. Public associations may only be formed in order to fulfil specific needs, may not exercise the specific functions of trade unions and shall be organised internally on the basis of respect for their members' rights and the democratic formation of their organs.
5. The processing of administrative activities shall be the object of a special law, which shall ensure the rationalisation of the resources that are to be used by departments and services, and that citizens participate in the taking of decisions or deliberations that concern them.
6. Private entities that exercise public powers may be subject to administrative inspection as laid down by law.

#### Article 268

##### (Citizens' rights and guarantees)

1. Citizens have the right to be informed by the Administration, whenever they so request, as to the progress of the procedures and cases in which they are directly interested, together with the right to be made aware of the definitive decisions that are taken in relation to them.
2. Without prejudice to the law governing matters concerning internal and external security, criminal investigation and personal privacy, citizens also have the right of access to administrative files and records.
3. Administrative acts are subject to notification of the interested parties in the form laid down by law, and when they affect rights or interests that are protected by law, must be based on express and accessible grounds.
4. Citizens are guaranteed effective jurisdictional oversight of those of their rights and interests that are protected by law, particularly including the recognition of the said rights and interests, the impugnation of any administrative act that harms their rights and interests, regardless of its form, the issue of positive decisions requiring the practice of administrative acts that are required by law, and the adoption of adequate provisional remedies.
5. Citizens also have the right to challenge administrative norms which have external force and harm those of their rights or interests that are protected by law.

6. For the purposes of paragraphs (1) and (2) the law shall lay down a maximum time limit for responses by the Administration.

#### Article 269

(Regime governing the public service)

1. In the exercise of their functions Public Administration workers and other agents of the state and of other public entities shall exclusively serve the public interest, as defined in accordance with the law by the competent organs of the Administration.

2. Public Administration workers and other agents of the state and of other public entities may not be prejudiced or benefited as a result of the exercise of any political rights provided for in the Constitution, particularly party political preferences.

3. Accused persons in disciplinary proceedings are guaranteed the right to be heard and to a defence.

4. The accumulation of public positions and offices is not permitted, save in the cases that are expressly admitted by law.

5. The law shall lay down the incompatibilities between the exercise of public positions or offices and that of other activities.

#### Article 270

(Restrictions on the exercise of rights)

Strictly to the extent required by the specific demands of the respective functions, the law may establish restrictions on the exercise of the rights of expression, meeting, demonstration, association and collective petition by full-time military personnel and militarised agents on active service and agents of the security services and forces, and on their legal capacity to stand for election. In the case of the security forces, even when their right to form trade unions is recognised, the law may preclude the right to strike.

#### Article 271

(Liability of public sector staff and agents)

1. The staff and agents of the state and of other public entities are civilly and criminally liable and subject to disciplinary proceedings for their actions and omissions in the exercise of their functions, and for any such exercise that leads to a breach of those citizens' rights or interests that are protected by law, and no phase of any action or proceedings shall be dependent on authorisation by higher authority.

2. Liability on the part of any public sector member of staff or agent who acts in compliance with orders or instructions issued by a legitimate hierarchical superior and in the performance of his duties is excluded, if he previously protested against those orders or instructions or required them to be transmitted or confirmed in writing.

3. The duty of obedience ceases whenever compliance with orders or instructions would imply the commission of any crime.

4. The law shall regulate the terms under which the state and other public entities have the right to indemnification by the officeholders of their entities and organs and their staff and agents.

## Article 272

(Police)

1. The functions of the police are to defend democratic legality and guarantee internal security and citizens' rights.
2. Policing measures shall be those laid down by law and must not be used beyond that which is strictly necessary.
3. Crime prevention, including that of crimes against state security, may only be undertaken in compliance with the general rules governing policing and with respect for citizens' rights, freedoms and guarantees.
4. The law shall lay down the regime governing the security forces and each such force shall have a sole organisational structure for the whole of Portuguese territory.

## TITLE X National

defence Article

273 (National

defence)

1. The state is under an obligation to ensure national defence.
2. The objectives of national defence are to guarantee national independence, territorial integrity and the freedom and security of the population from any external aggression or threat, while respecting the constitutional order, the democratic institutions and international conventions.

## Article 274

(Supreme National Defence Council)

1. The Supreme National Defence Council is chaired by the President of the Republic and shall be composed as laid down by law, to include members elected by the Assembleia da República.
2. The Supreme National Defence Council is the specific consultative organ for matters concerning national defence and the organisation, modus operandi and discipline of the Armed Forces, and may dispose of the administrative competences that are allocated to it by law.

## Article 275

(Armed Forces)

1. The Armed Forces are charged with the military defence of the Republic.
2. The Armed Forces shall be composed exclusively of Portuguese citizens and shall have a single organisational structure for the whole of Portuguese territory.

3. The Armed Forces shall obey the competent entities that exercise sovereignty, in accordance with the Constitution and the law.
4. The Armed Forces serve the Portuguese people and shall be rigorously non-partisan. Their personnel may not take advantage of their weapons, their positions or their functions to intervene politically in any way.
5. The Armed Forces are charged, as laid down by law, with fulfilling the Portuguese state's international commitments in the military field and taking part in humanitarian and peace missions undertaken by the international organisations to which Portugal belongs.
6. The Armed Forces may be charged, as laid down by law, with cooperating in civil defence missions, tasks concerning the fulfilment of basic needs and the improvement of people's quality of life, and technical and military cooperation actions within the ambit of the national cooperation policy.
7. The laws that regulate the state of siege and the state of emergency shall lay down the terms and conditions governing the use of the Armed Forces when such situations arise.

#### Article 276

(Defence of the nation, military service and civic service)

1. Every Portuguese has the right and fundamental duty to defend the nation.
2. Military service shall be regulated by law, which shall lay down the forms, voluntary or compulsory nature, duration and content of the performance thereof.
3. Citizens who by law are subject to the performance of military service and are considered unfit for armed military service shall perform the unarmed military service or civic service that is appropriate to their situation.
4. Conscientious objectors to the military service to which they are subject by law shall perform civic service with the same duration and degree of arduousness as those of armed military service.
5. Civic service may be established as a substitute for or complement to military service and made legally compulsory for citizens who are not subject to military duties.
6. No citizen may retain or obtain employment with the state or any other public entity if he fails or ceases to perform his military or civic service duties when they are compulsory.
7. No citizen may be prejudiced in relation to his assignment, social benefits or permanent employment as the result of his performance of military service or compulsory civic service.

### PART IV

Guaranteeing and revision of the Constitution

#### TITLE I

Review of constitutionality

#### Article 277

(Positive unconstitutionality)

1. Norms that contravene the provisions of the Constitution or the principles enshrined therein are unconstitutional.

2. On condition that the norms in question are applied in the legal order of the other party, the organic or formal unconstitutionality of properly ratified international treaties does not prevent the application of the norms they contain in the Portuguese legal order, save if that unconstitutionality results from the breach of a fundamental provision of the Constitution.

#### Article 278

(Prior review of constitutionality)

1. The President of the Republic may ask the Constitutional Court to undertake the prior consideration of the constitutionality of any norm contained in an international treaty that is submitted to him for ratification, in any decree that is sent to him for enactment as a law or executive law, or in any international agreement, the decree approving which is sent to him for signature.

2. Representatives of the Republic may also ask the Constitutional Court to undertake the prior consideration of the constitutionality of any norm contained in a regional legislative decree that is sent to them for signature.

3. The prior consideration of constitutionality must be requested within a time limit of eight days counting from the date on which the legislative act is received.

4. In addition to the President of the Republic himself, the Prime Minister or one fifth of all the Members of the Assembleia da República in full exercise of their office may ask the Constitutional Court to undertake the prior consideration of the constitutionality of any norm contained in any decree that is sent to the President of the Republic for enactment as an organic law.

5. On the date on which he sends any decree that must be enacted as an organic law to the President of the Republic for enactment, the President of the Assembleia da República shall notify the Prime Minister and the parliamentary groups in the Assembleia da República thereof.

6. The prior consideration of constitutionality provided for in paragraph (4) must be requested within a time limit of eight days counting from the date provided for in paragraph (5).

7. Without prejudice to the provisions of paragraph (1), the President of the Republic may not enact the decrees referred to in paragraph (4) unless eight days have passed since their receipt, or, when the Constitutional Court has been asked to intervene, until it has pronounced itself on them.

8. The Constitutional Court must pronounce within a time limit of twenty-five days, which the President of the Republic may reduce for urgent reasons in the case provided for in paragraph (1).

#### Article 279

(Effects of decision)

1. If the Constitutional Court pronounces the unconstitutionality of a norm contained in any decree or international treaty, the President of the Republic or the Representative of the Republic, as appropriate, must veto the legislative act and return it to the entity or organ that passed it.

2. In the case provided for in paragraph (1), the decree may not be enacted or signed unless the entity or organ that passed it expunges the norm that has been held unconstitutional, or, where applicable, the entity or organ confirms the norm by a majority that is at least equal to two thirds of all Members who are present and is greater than an absolute majority of all the Members in full exercise of their office.

3. If the legislative act is reformulated, the President of the Republic or the Representative of the Republic, as appropriate, may request the prior review of the constitutionality of any of the norms in the reformulated text.

4. If the Constitutional Court pronounces the unconstitutionality of any norm contained in a treaty, the latter may only be ratified if the Assembleia da República then approves it by a majority that is at least equal to two thirds of all Members present and greater than an absolute majority of all the Members in full exercise of their office.

#### Article 280

(Concrete review of constitutionality and legality)

1. Appeal may be made to the Constitutional Court against court decisions:

- a) That refuse the application of any norm on the grounds of its unconstitutionality;
- b) That apply a norm whose unconstitutionality has been raised during the proceedings.

2. Appeal may also be made to the Constitutional Court against court decisions:

- a) That refuse the application of a norm contained in a legislative act, on the grounds that it is illegal because it is in breach of a law which possesses superior legal force;
- b) That refuse the application of a norm contained in a regional legislative act, on the grounds that it is illegal because it is in breach of the autonomous region's statute;
- c) That refuse the application of a norm contained in a legislative act issued by an entity that exercises sovereignty, on the grounds that it is illegal because it is in breach of an autonomous region's statute;
- d) That apply any norm whose illegality on any of the grounds referred to in subparagraphs (a), (b) and (c) has been raised during the proceedings.

3. When the norm whose application has been refused is contained in an international convention, a legislative act or a regulatory decree, the Public Prosecution Service shall obligatorily lodge the appeal provided for in paragraph (1)(a) or 2(a).

4. The appeals provided for in paragraphs (1)(b) and (2)(d) may only be lodged by the party that raised the question of unconstitutionality or illegality, and the law must regulate the regime governing the admission of such appeals.

5. Appeal may also be made to the Constitutional Court, and the Public Prosecution Service shall obligatorily lodge such appeals, against court decisions that apply norms which the Constitutional Court itself has previously held unconstitutional or illegal.

6. Appeals to the Constitutional Court are restricted to the question of unconstitutionality or illegality, as appropriate.

#### Article 281

(Abstract review of constitutionality and legality)

1. The Constitutional Court may consider and declare with generally binding force:

- a) The unconstitutionality of any norm;

b) The illegality of any norms contained in a legislative act, on the grounds of the breach of a law with superior legal force;

c) The illegality of any norms contained in a regional legislative act, on the grounds of the breach of the autonomous region's statute;

d) The illegality of any norms contained in a legislative act issued by an entity that exercises sovereignty, on the grounds of a breach of those of an autonomous region's rights that are enshrined in its statute.

2. The following may ask the Constitutional Court for a declaration of unconstitutionality or illegality with generally binding force:

a) The President of the Republic;

b) The President of the Assembleia da República;

c) The Prime Minister;

d) The Ombudsman;

e) The Prosecutor General;

f) One tenth of the Members of the Assembleia da República;

g) When the grounds for the request for a declaration of unconstitutionality are the breach of the rights of the autonomous regions, or the grounds for the request for a declaration of illegality are the breach of the respective statute, Representatives of the Republic, Legislative Assemblies of the autonomous regions, presidents of Legislative Assemblies of the autonomous regions, presidents of Regional Governments, or one tenth of the members of the respective Legislative Assembly.

3. The Constitutional Court may also consider and declare with generally binding force the unconstitutionality or illegality of any norm, on condition that it has already held the norm unconstitutional or illegal in three concrete cases.

## Article 282

(Effects of declarations of unconstitutionality or illegality)

1. A declaration of unconstitutionality or illegality with generally binding force has effect as of the moment at which the norm declared unconstitutional or illegal came into force, and causes the revalidation of any norms that the said norm repealed.

2. However, in the case of unconstitutionality or illegality due to breach of a subsequent constitutional or legal norm, the declaration only has effect as of the moment at which the latter came into force.

3. Res judicata are excepted, save when the Constitutional Court decides to the contrary in relation to a norm that concerns penal or disciplinary matters or administrative offences and whose contents are less favourable to the accused person.

4. When required for the purposes of legal security, reasons of fairness or an exceptionally important public interest, the grounds for which must be given, the Constitutional Court may determine a scope for the effects of the unconstitutionality or illegality that is more restricted than that provided for in paragraphs (1) and (2).

## Article 283

(Unconstitutionality by omission)

1. At the request of the President of the Republic, the Ombudsman, or, on the grounds of the breach of rights of the autonomous regions, presidents of the Legislative Assemblies of autonomous regions, the Constitutional Court shall consider and verify whether there is a failure to comply with the Constitution due to the omission of legislative measures needed to make constitutional norms executable.

2. When the Constitutional Court verifies that an unconstitutionality by omission exists, it shall notify the competent legislative entity thereof.

## TITLE II

### Revision of the Constitution

#### Article 284

(Competence and time for revisions)

1. The Assembleia da República may revise the Constitution five years after the date of publication of the last ordinary revision law.

2. However, by a majority of at least four fifths of all the Members in full exercise of their office, the Assembleia da República may take extraordinary revision powers at any time.

#### Article 285

(Initiating revisions)

1. The competence to initiate revisions pertains to Members of the Assembleia da República.

2. Once a draft revision of the Constitution has been submitted, any others have to be submitted within a time limit of thirty days.

#### Article 286

(Passage and enactment)

1. Amendments to the Constitution require passage by a majority of two thirds of the Members of the Assembleia da República in full exercise of their office.

2. Amendments to the Constitution that are passed shall be combined in a single revision law.

3. The President of the Republic may not refuse to enact the revision law.

#### Article 287

(New text of the Constitution)

1. Amendments to the Constitution shall be inserted in the proper place by means of the necessary replacements, eliminations and additions.

2. The new text of the Constitution shall be published along with the revision law.



## Article 288

(Material limits on revision) Constitutional

revision laws must respect:

- a) National independence and the unity of the state;
- b) The republican form of government;
- c) The separation between church and state;
- d) Citizens' rights, freedoms and guarantees;
- e) The rights of workers, workers' committees and trade unions;
- f) The coexistence of the public, private and cooperative and social sectors of ownership of the means of production;
- g) The existence of economic plans, within the framework of a mixed economy;
- h) The appointment of the elected officeholders of the entities that exercise sovereignty, of the organs of the autonomous regions and of local government organs by universal, direct, secret and periodic suffrage, and the proportional representation system;
- i) Plural expression and political organisation, including political parties, and the right of democratic opposition;
- j) The separation and interdependence of the entities that exercise sovereignty;
- l) The subjection of legal norms to review of their positive constitutionality and of their unconstitutionality by omission;
- m) The independence of the courts;
- n) The autonomy of local authorities;
- o) The political and administrative autonomy of the Azores and Madeira archipelagos.

## Article 289

(Circumstances in which revision is restricted)

No act involving the revision of the Constitution may be undertaken during a state of siege or a state of emergency.

## Final and transitional provisions

### Article 290

(Previous law)

1. Without prejudice to the provisions of the following paragraph, constitutional laws that postdate 25 April 1974 and are not excepted in this chapter are considered ordinary laws.
2. The ordinary law prior to the entry into force of the Constitution is maintained on condition that it is not contrary to the Constitution or the principles enshrined therein.

#### Article 291

(Districts)

1. For as long as the administrative regions are not instituted *de facto*, the areas that they do not yet cover shall continue to be divided into districts.
2. In each district there shall be a decision-making assembly composed of representatives from its municipalities, under terms to be laid down by law.
3. With the assistance of a council, the civil governor has the competence to represent the Government and exercise the powers of oversight in the area of each district.

#### Article 292

(Criminalisation and trial of PIDE/DGS agents and officials)

1. Law no. 8/75 of 25 July 1975, as amended by Law no. 16/75 of 23 December 1975 and by Law no. 18/75 of 26 December 1975, remains in force.
2. The law may specify the types of crime set out in Articles 2(2), 3, 4(b) and 5 of the legislative act referred to in the previous paragraph.
3. The law may especially regulate the extraordinary extenuating circumstances provided for in Article 7 of the same legislative act.

#### Article 293

(Reprivatisation of property nationalised after 25 April 1974)

1. A framework law passed by an absolute majority of all the Members of the Assembleia da República in full exercise of their office shall regulate reprivatisations of the ownership of, or the right to use, means of production and other property nationalised after 25 April 1974, in compliance with the following fundamental principles:
  - a) As a rule, reprivatisations of the ownership of, or of the right to use, means of production and other property nationalised after 25 April 1974 shall preferentially be conducted by competitive public tender, offer on the stock exchange, or public subscription;
  - b) The revenue obtained from reprivatisations shall be used solely to redeem the public debt and the debts of the state's business sector, to service the debt resulting from nationalisations, or for new capital investment in the productive sector;
  - c) The workers of enterprises that are the object of reprivatisation shall retain all their pre-existing rights and obligations in the process of the reprivatisation of the respective enterprise;
  - d) The workers of enterprises that are the object of reprivatisation shall acquire the right to the preferential subscription of a percentage of the respective share capital;

e) The means of production and other property that are to be reprivatised shall be the object of prior valuation by more than one independent entity.

2. Small and medium-sized enterprises that have been indirectly nationalised and are situated outside the basic sectors of the economy may be reprivatised as laid down by law.

#### Article 294

(Regime applicable to local authority organs)

Until the law provided for in Article 239(3) enters into force, local authority organs shall be formed and operate in accordance with the legislation that corresponds to the text of the Constitution as revised by Constitutional Law no. 1/92 of 25 November 1992.

#### Article 295

(Referenda on European treaties)

The provisions of Article 115(3) do not prejudice the possibility of calling and holding referenda on the approval of treaties concerning the construction and deepening of the European Union.

#### Article 296

(Date and entry into force of the Constitution)

1. The Constitution of the Portuguese Republic bears the date of its passage by the Constituent Assembly:  
2 April 1976.

2. The Constitution of the Portuguese Republic enters into force on 25 April 1976.