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# Portugal's Constitution of 1976 with Amendments through 2005

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## Preamble

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

Freeing Portugal from dictatorship, oppression and colonialism was 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 have come together 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 fundamental citizens' 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 session 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 shall be 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 shall be a democratic state based on the rule of law, the sovereignty of the people, plural democratic expression and organisation, respect for and the guarantee of the effective implementation of fundamental rights and freedoms, and the separation and interdependence of powers, all with a view to achieving economic, social and cultural democracy and deepening participatory democracy.

### Article 3: Sovereignty and legality

1. Sovereignty shall be single and indivisible and shall lie with the people, who shall exercise it in the forms provided for in this Constitution.
2. The state shall be subject to this Constitution and shall be based on the democratic rule of law.
3. The validity of laws and other acts of the state, the autonomous regions, local government and any other public bodies shall be dependent on their conformity with this Constitution.

### Article 4: Portuguese citizenship

All persons whom the law or international convention consider to be Portuguese citizens shall be such citizens.

## Article 5: Territory

1. Portugal shall comprise that territory on the European mainland which 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 seabed.
3. Without prejudice to the rectification of borders, the state shall not dispose of title to any part of Portuguese territory or of the sovereign rights that it exercises thereover.

## Article 6: Unitary state

1. The state shall be unitary and shall be organised and function in such a way as to 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 shall be autonomous regions with their own political and administrative statutes and self-government institutions.

## Article 7: International relations

1. In its international relations Portugal shall be 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 shall advocate the abolition of imperialism, colonialism and all 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 setting up of a collective security system, all with a view to the creation of an international order with the ability to ensure peace and justice in the relations between peoples.
3. Portugal shall recognise peoples' rights to self-determination and independence and to development, as well as the right to insurrection against all forms of oppression.
4. Portugal shall maintain privileged ties of friendship and cooperation with Portuguese-speaking countries.
5. Portugal shall make every effort to reinforce the European identity and to strengthen the European states' actions in favour of democracy, peace, economic progress and justice in the relations between peoples.
6. Subject to reciprocity and to 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 enter into agreements for the exercise jointly, 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 both individual human persons and 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.

• Regional group(s)

• Right to overthrow government  
• Right to self determination

• Regional group(s)

• Regional group(s)

• International human rights treaties

## Article 8: International law

1. The rules and principles of general or common international law shall form an integral part of Portuguese law.
2. The rules set out in duly ratified or passed international agreements shall come into force in Portuguese internal law once they have been officially published, and shall remain so for as long as they are internationally binding on the Portuguese state.
3. Rules issued by the competent bodies of international organisations to which Portugal belongs shall 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 rules issued by its institutions in the exercise of their respective responsibilities shall apply 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 shall be:

- a. To guarantee national independence and create the political, economic, social and cultural conditions that promote it;
- b. To guarantee 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 proper town and country planning;
- f. To ensure education and permanent personal enhancement, and safeguard the use and promote the international dissemination of the Portuguese language;
- 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 shall exercise political power by means of universal, equal, direct, secret and periodic suffrage, referendum and the other forms provided for in

- Secret ballot
- Claim of universal suffrage

this Constitution.

2. Political parties shall 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

- National flag
- National anthem
- Official or national languages

1. The National Flag, which shall be the symbol of the sovereignty of the Republic and of Portugal's independence, unity and integrity, shall be that adopted by the Republic formed by the Revolution of the 5th of October 1910.
2. The national anthem shall be A Portuguesa.
3. The official language shall be Portuguese.

# Part I: Fundamental rights and duties

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## Title I: General principles

### Article 12: Principle of universality

1. Every citizen shall enjoy the rights and be subject to the duties enshrined in this Constitution.
2. Bodies corporate shall enjoy such rights and be subject to such duties as are compatible with their nature.

### Article 13: Principle of equality

- General guarantee of equality
- Equality regardless of gender
- Equality regardless of creed or belief
- Equality regardless of social status
- Equality regardless of financial status
- Equality regardless of political party
- Equality regardless of origin
- Equality regardless of race
- Equality regardless of language
- Equality regardless of religion
- Equality regardless of sexual orientation

1. Every citizen shall possess the same social dignity and shall be equal before the law.
2. No one shall be privileged, favoured, prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, race, language, place 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 shall enjoy the state's protection in the exercise of such rights and shall be subject to such duties as 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 shall enjoy the same rights and be subject to the same duties as Portuguese citizens.
2. Political rights, the exercise of public offices that are not predominantly technical in nature, and the rights that this Constitution and the law reserve exclusively to Portuguese citizens shall be excepted from the provisions of the previous paragraph.

3. With the exceptions of appointment to the offices of President of the Republic, President of the Assembly of the Republic, Prime Minister and President of any of the supreme courts, and of service in the armed forces and the diplomatic corps, in accordance with the law and subject to reciprocity, such rights as are not otherwise granted to foreigners shall apply to citizens of Portuguese-speaking states who reside permanently in Portugal.
4. Subject to reciprocity, the law may grant foreigners who reside in Portugal the right to vote for and stand for election as local councillors.
5. Subject to reciprocity, the law may also grant citizens of European Union Member States who reside in Portugal the right to vote for and stand for election as Members of the European Parliament.

• Regional group(s)

## Article 16: Scope and interpretation of fundamental rights

1. The fundamental rights enshrined in this Constitution shall not exclude such other rights as may be laid down by law and in the applicable rules of international law.
2. The provisions of this Constitution and of laws concerning fundamental rights shall be interpreted and construed in accordance with the Universal Declaration of Human Rights.

• International human rights treaties

## Article 17: Rules governing rights, freedoms and guarantees

The set of rules governing rights, freedoms and guarantees shall apply to those set out in Title II and to fundamental rights of a similar nature.

## Article 18: Legal force

1. This Constitution's provisions with regard to rights, freedoms and guarantees shall be directly applicable to and binding on public and private persons and bodies.
2. The law may only restrict rights, freedoms and guarantees in cases expressly provided for in this Constitution, and such restrictions shall be limited to those needed to safeguard other rights and interests protected by this Constitution.
3. Laws that restrict rights, freedoms and guarantees shall possess an abstract and general nature and shall not possess a retroactive effect or reduce the extent or scope of the essential content of the provisions of this Constitution.

• Binding effect of const rights

## Article 19: Suspension of the exercise of rights

1. Bodies that exercise sovereign power shall not jointly or separately suspend the exercise of 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 this 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 constitutional democratic order, or public disaster.
3. A state of emergency shall be declared when the preconditions referred to in the previous paragraph are less serious, and shall only cause the suspension of the some of the rights, freedoms and guarantees that are capable of being suspended.

• Emergency provisions

• Emergency provisions

• Emergency provisions

4. Both the choice between a state of siege and a state of emergency and the declaration and implementation thereof shall respect the principle of proportionality and shall limit themselves, particularly as regards their extent and duration and the means employed, to that which is strictly necessary to promptly restore constitutional normality.
5. Declarations of a state of siege or a state of emergency shall set out adequate grounds therefore and shall specify the rights, freedoms and guarantees that are to be suspended. Without prejudice to the possibility of renewal subject to the same limits, neither may last for more than fifteen days, or, in the event that it results from a declaration of war, for more than the duration determined by law.
6. Under no circumstances shall 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, defendants' right to a defence, or freedom of conscience and religion.
7. Declarations of a state of siege or a state of emergency may only alter constitutional normality in the manner provided for in this Constitution and the law. In particular, they shall not affect the application of the constitutional rules concerning the responsibilities and functioning of the bodies that exercise sovereign power or of the self-government bodies of the autonomous regions, or the rights and immunities of the holders of such offices.
8. Declarations of a state of siege or a state of emergency shall grant the public authorities the power and responsibility to take the appropriate steps needed to promptly restore constitutional normality.

## Article 20: Access to law and effective judicial protection

1. Everyone shall be 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 shall not be denied to anyone due to lack of financial means.
2. Subject to the terms of the law, everyone shall possess 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 shall possess the right to secure a ruling in any suit to which he is a party, within a reasonable period of time and by means of fair process.
5. For the purpose of safeguarding 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 shall possess 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 bodies

Jointly with their officeholders, staff and agents, the state and all other public bodies shall be civilly liable for such actions or omissions in the performance of their functions as result in a breach of rights, freedoms or guarantees or in any 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 bodies such recommendations as may be necessary in order to prevent or make good any injustices.
2. The Ombudsman's work shall be independent of any acts of grace or legal remedies provided for in this Constitution or the law.
3. The Ombudsman's office shall be an independent body and the Assembly of the Republic shall appoint the Ombudsman for such time as the law may determine.
4. The bodies 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 shall be inviolable.
2. The death penalty shall not exist under any circumstances.

#### Article 25: Right to personal integrity

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

#### Article 26: Other personal rights

1. Everyone shall possess the right to a personal identity, to the development of their personality, to civil capacity, to citizenship, to a good name and reputation, to their likeness, 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 procurement and misuse of information concerning persons and families and its 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 such cases and under such terms as may be provided for by law, and shall not be based on political motives.

#### Article 27: Right to freedom and security

1. Everyone shall possess 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 sentence imposed for the practise of an act that is punishable by law with a prison term or the imposition by a court of a security measure.

3. The following cases of deprivation of freedom for such time and under such conditions as the law may determine shall be exceptions to this principle:
  - a. Detention in flagrante delicto;
  - b. Detention or remand in custody where there is strong evidence of the commission of a serious crime punishable by imprisonment for a maximum term of more than three years;
  - c. The imposition of imprisonment, detention or any other coercive measure subject to judicial control, on a person who improperly entered or is improperly present in Portuguese territory, or who is currently the object of extradition or deportation proceedings;
  - d. The imposition of disciplinary imprisonment on military personnel. Such imprisonment shall be subject to 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 under a court order for disobeying a court ruling or to ensure appearance before a competent judicial authority;
  - g. Detentions of suspects for identification purposes, in such cases and for such time as may be 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 shall 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 this Constitution and the law shall place the state under a duty to compensate the aggrieved person in accordance with the law.

## Article 28: Remand in custody

1. Within at most forty-eight hours, all detentions shall be submitted to judicial scrutiny with a view to either the detainee's release or the imposition of an appropriate coercive measure. The judge shall become acquainted with the reasons for the detention and shall inform the detainee thereof, question him and give him the opportunity to present a defence.
2. Remand in custody shall be 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. Notification of any court order that institutes or maintains a measure entailing the deprivation of freedom shall immediately be given to such relative or other person of trust as the detainee may nominate.
4. Remand in custody shall be subject to the time limits laid down by law.

## Article 29: Application of criminal law

1. No one shall be sentenced under the criminal law unless the action or omission in question is punishable under the terms of a pre-existing law, nor shall 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 shall 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 commonly recognised international law at the moment of its commission.
3. No sentence or security measure shall be applied unless it is expressly sanctioned in a pre-existing law.
4. No one shall 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. However, criminal laws the content of which is more favourable to the defendant shall be applied retroactively.
5. No one shall be tried more than once for the same crime.
6. Citizens who are unjustly convicted shall possess the right to the review of their sentences and to compensation for such damages as 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 shall be perpetual in nature or possess an unlimited or undefined duration.
2. In cases of danger based on serious psychic abnormality in which therapy in an open environment is impossible, security measures that deprive or restrict freedom may be successively extended for such time as the psychic state in question is maintained, but always by means of a judicial ruling.
3. Criminal liability shall not be transferable.
4. No sentence shall automatically result in 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 shall retain their fundamental rights, subject only to such limitations as are inherent to their convictions and to the specific requirements imposed by the execution of the respective sentences.

## Article 31: Habeas corpus

1. Habeas corpus shall be available to counter the misuse of power in the form of illegal arrest, imprisonment or detention. Application for it shall 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 exercising his political rights.
3. Within eight days of an application for habeas corpus the judge shall rule thereon in a hearing that shall be subject to pleading and counter-pleading.

## Article 32: Safeguards in criminal proceedings

1. Criminal proceedings shall ensure all necessary safeguards for the defence, including the right to appeal.

- Presumption of innocence in trials
- Right to speedy trial

- Right to counsel

2. Every defendant shall be presumed innocent until his sentence has transited in rem judicatam, and shall be brought to trial as quickly as is compatible with the safeguards of the defence.
3. Defendants shall possess 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 proceedings in which the assistance of a lawyer shall be mandatory.
4. Preliminary investigations shall be conducted entirely under the responsibility of a judge, who may, subject to the terms of the law, delegate the practise of such investigative acts as do not directly concern fundamental rights to other persons or bodies.
5. Criminal proceedings shall possess an accusatorial structure, and trial hearings and such preliminary investigative acts as the law may require shall be subject to the principle of pleading and counter-pleading.
6. The law shall define the cases in which, subject to the safeguarding of the rights of the defence, the presence of the defendant or the accused at procedural acts, including trial hearings, may be dispensed with.
7. Victims shall possess the right to take part in proceedings, as laid down by law.
8. All evidence obtained by torture, coercion, infringement of personal physical or moral integrity, improper intromission into personal life, the home, correspondence or telecommunications shall be deemed null and void.
9. No case shall be withdrawn from a court that already had jurisdiction under an earlier law.
10. Defendants in proceedings concerning administrative offences or in any proceedings in which penalties may be imposed shall possess the right to be heard and to a defence.

- Protection of victim's rights

- Regulation of evidence collection
- Telecommunications

### **Article 33: Deportation, extradition and right of asylum**

- Extradition procedure

- Protection of stateless persons

1. Portuguese citizens shall not be deported from Portuguese territory.
2. Deportation of anyone who properly entered or is properly present 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 ensure expedite forms of ruling in such cases.
3. The extradition of Portuguese citizens from Portuguese territory shall only be permissible where an international agreement has established reciprocal extradition arrangements, or in cases of terrorism or international organised crime, and on condition that the applicant state's legal system enshrines guarantees of a just and fair trial.
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, shall only be permissible in the event that the applicant state is a party to an international agreement 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 shall not prejudice the application of such rules governing judicial cooperation in the criminal field as may be laid down under the aegis of the European Union.
6. No one shall be extradited or handed over 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 a person's physical integrity.
7. Extradition shall only be ordered by a judicial authority.

- Extradition procedure

- Protection of stateless persons

8. The right of asylum shall be 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 rights of the human person.
9. The law shall define the status of political refugee.

- Regulation of evidence collection
- Inalienable rights

## Article 34: Inviolability of home and correspondence

1. Personal homes and the secrecy of correspondence and other means of private communication shall be inviolable.
2. Entry into a citizen's home may only be ordered by the competent judicial authority and then only in such cases and in compliance with such forms as may be laid down by law.
3. No one shall enter any person's home 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 shall be prohibited from interfering in any way with correspondence, telecommunications or other means of communication, save in such cases as the law may provide for in relation to criminal proceedings.

- Terrorism

- Telecommunications

## Article 35: Use of computers

1. Every citizen shall possess the right to access to all computerised data that concern him, to require that they be corrected and updated, and to be informed of the purpose for which they are intended, all 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 body.
3. Computers shall not be used to treat data concerning philosophical or political convictions, party or trade union affiliations, religious beliefs, private life or ethnic origins, save with the express consent of the data subject, with authorisation provided for by law and with guarantees of nondiscrimination, or for the purpose of processing statistical data that cannot be individually identified.
4. Third-party access to personal data shall be prohibited, save in exceptional cases provided for by law.
5. The allocation of a single national number to any citizen shall be prohibited.
6. Everyone shall be guaranteed free access to public-use computer networks, and the law shall define both the rules that shall apply to cross-border data flows and the appropriate means for protecting personal data and such other data as may justifiably be safeguarded in the national interest.
7. Personal data contained in manual files shall enjoy the same protection as that provided for in the previous paragraphs, as laid down by law.

- Right to information

## Article 36: Family, marriage and filiation

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

- Right to found a family
- Right to marry
- Provision for matrimonial equality

• Provision for matrimonial equality

3. Spouses shall possess 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 shall 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 their filiation.
5. Parents shall possess the right and the duty to educate and maintain their children.
6. Children shall not be separated from their parents, save when the latter do not fulfil their fundamental duties towards them, and then always by judicial order.
7. Adoption shall be regulated and protected by law, which shall lay down swift forms of completion of the necessary requirements.

• Freedom of expression

### Article 37: Freedom of expression and information

1. Everyone shall possess the right to freely express and publicise 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 the said rights shall not be hindered or limited by any type or form of censorship.
3. Infractions committed in the exercise of the said rights shall be subject to the general principles of the criminal law or the law governing administrative offences, and shall be brought before the courts of law or an independent administrative body respectively, as laid down by law.
4. Every person and body corporate shall be equally and effectively guaranteed the right of reply and to make corrections, as well as the right to compensation for damages suffered.

• Freedom of press

• Freedom of press

### Article 38: Freedom of the press and the media

1. The freedom of the press shall be guaranteed.
2. Freedom of the press shall mean:
  - a. Journalists and other staff's freedom of expression and creativity, as well as journalists' freedom to take part in determining the editorial policy of the media body in question, save when it is doctrinal or denominational in nature;
  - b. Journalists' right, as laid down by law, to gain access to sources of information and to the protection of professional independence and secrecy, as well as their right to elect editorial boards;
  - c. The right to found newspapers and any other publications, regardless of any prior administrative authorisation, bond or qualification.
3. In generic terms, the law shall ensure that the names of the owners of media bodies and the means by which those bodies are financed are publicised.
4. The state shall ensure the media's freedom and independence from political power and economic power by imposing the principle of specialisation on businesses that own general information media, 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.

• State operation of the media

• State operation of the media  
• Radio  
• Television

6. The structure and operation of public sector media shall safeguard their independence from the Government, the Public Administration and the other public authorities, and shall ensure that all the different currents of opinion are able to express themselves and to confront one another.
7. Radio and television broadcasting stations shall only operate with licenses that are granted under public calls for tender, as laid down by law.

## Article 39: Regulation of the media

1. An independent administrative body 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 personal rights, freedoms and guarantees;
  - e. Respect for the statutes and rules 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, responsibilities, organisation and modus operandi of the body referred to in the previous paragraph, together with the status and role of its members, who shall be appointed by the Assembly of the Republic and co-opted by those so appointed.

## Article 40: Right to broadcasting time, of reply and of political response

1. Political parties, trade unions, professional and business organisations and other organisations with a national scope shall, in accordance with their size and representativity and with objective criteria that shall be defined by law, possess the right to broadcasting time on the public radio and television service.
2. Political parties that hold one or more seats in the Assembly of the Republic and do not form part of the Government shall, as laid down by law, possess the right to broadcasting time on the public radio and television service, which shall be apportioned in accordance with each party's proportional share of the seats in the Assembly, as well as to reply or respond politically to the Government's political statements. Such times shall be of the same duration and prominence as those given over to the Government's broadcasts and statements. Parties with seats in the Legislative Assemblies of the autonomous regions shall enjoy the same rights within the ambit of the region in question.
3. During elections and as laid down by law, candidates shall possess the right to regular and equitable broadcasting time on radio and television stations with a national or regional scope.

## Article 41: Freedom of conscience, religion and worship

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

## Article 42: Freedom of cultural creation

1. Intellectual, artistic and scientific creation shall not be restricted.
2. This freedom shall comprise the right to invent, produce and publicise scientific, literary and artistic works and shall include the protection of copyright by law.

## Article 43: Freedom to learn and to teach

1. The freedom to learn and to teach shall be guaranteed.
2. The state shall not lay down educational and cultural programmes in accordance with any philosophical, aesthetic, political, ideological or religious directives.
3. Public education shall not be denominational.
4. The right to create private and cooperative schools shall be guaranteed.

## Article 44: Right to travel and to emigrate

1. Every citizen shall be guaranteed the right to travel and settle freely anywhere in Portuguese territory.
2. Every citizen shall be 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 shall possess the right to meet peacefully and without arms, even in places that are open to the public, without the need for any authorisation.
2. The right of every citizen to demonstrate shall be recognised.

## Article 46: Freedom of association

1. Citizens shall possess the right to freely associate with one another without requiring 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 shall not be dissolved by the state or have their activities suspended, except in such cases as the law may provide for and then only by judicial order.



3. No one shall 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 shall not be permitted.

## Article 47: Freedom to choose a profession and to join the Public Administration

1. Everyone shall possess the right to freely choose a profession or type of work, subject only to such restrictions as the law may impose in the collective interest, or as are inherent to his own capabilities.
2. Every citizen shall possess the equal and free right to apply to join the Public Administration, as a general rule by means of a competitive recruitment process.

## Chapter II: Rights, freedoms and guarantees concerning participation in politics

### Article 48: Participation in public life

1. Every citizen shall possess 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 shall possess the right to be given objective clarifications about the actions of the state and of other public bodies 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 shall possess the right to vote, save such incapacities as may be provided for in the general law.
2. The right to vote shall be exercised personally and shall constitute a civic duty.

### Article 50: Right to stand for public office

1. Every citizen shall possess the free and equal right to stand for any public office.
2. No one shall 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 the holding of public office.
3. In governing the right to stand for elected office, the law shall only determine such ineligibilities as are 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 shall include 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 shall be simultaneously registered as a member of more than one political party, and no one shall be deprived of the exercise of any right because he is or ceases to be registered as a member of any legally constituted party.

• Restrictions on political parties

3. Without prejudice to the philosophy or ideology that underlies their manifestoes, political parties shall 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.

• Restrictions on political parties

4. No party shall be formed with a name or manifesto that possesses a regional nature or scope.

• Restrictions on political parties

5. Political parties shall be governed by the principles of transparency, democratic organisation and management, and participation by all their members.

• Campaign financing

6. The law shall lay down the rules governing the financing of political parties, particularly as regards the requirements for and limits on public funding, as well as the requirements to publicise their assets and accounts.

• Right of petition

## Article 52: Right to petition and right to popular action

1. Every citizen shall possess the right to individually, or jointly with others, submit petitions, representations, claims or complaints in defence of their rights, this Constitution, the laws or the general interest to bodies that exercise sovereign power, the autonomous regions' self-government bodies or any authority, as well as the right to be informed of the result of the consideration thereof within a reasonable period of time.

2. The law shall lay down the terms under which joint petitions to the Assembly of the Republic and the Legislative Assemblies of the autonomous regions are considered in plenary sitting.

3. Everyone shall be granted the right of *actio popularis*, to include the right to apply for the appropriate compensation for an aggrieved party or parties, in such cases and under such terms as the law may determine, either personally or via associations that purport to defend the interests in question. The said right shall 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.

• Protection of environment

## Chapter III: Workers' rights, freedoms and guarantees

### Article 53: Job security

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

### Article 54: Workers' committees

1. Workers shall possess the right to form workers' committees to defend their interests and democratically intervene in company life.

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

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

4. Committee members shall enjoy the legal protection accorded to trade union delegates.
5. Workers' committees shall possess the right:
  - a. To receive all the information needed to perform their tasks;
  - b. To monitor the management of businesses;
  - 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, businesses' social activities;
  - f. To promote the election of workers' representatives to the management bodies of businesses that belong to the state or other public bodies, as laid down by law.

## Article 55: Freedoms concerning trade unions

1. Workers shall be free to form 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 their freedom to form and operate trade unions, workers shall particularly be guaranteed the following, without any discrimination:
  - a. Freedom to form trade unions at every level;
  - b. Freedom of membership. No worker shall be obliged to pay dues to a union to which he does not belong;
  - c. Freedom to determine the organisation and internal regulations of trade unions;
  - d. The right to engage in trade union activities in businesses;
  - e. The right to political views, in the forms laid down in the respective by-laws.
3. Trade unions shall be governed by the principles of democratic organisation and management, to be based on periodic elections of their managing bodies by secret ballot, without the need for any authorisation or homologation, and shall be founded on active worker participation in every aspect of trade union activity.
4. Trade unions shall be independent of employers, the state, religious denominations, and parties and other political associations, and the law shall lay down such guarantees as may be appropriate to that independence, which is fundamental to the unity of the working classes.
5. Trade unions shall possess the right to establish relations with or join international trade union organisations.

• Right to join trade unions  
• Reference to fraternity/solidarity

• Mentions of social class  
• Reference to fraternity/solidarity

6. Workers' elected representatives shall 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 in the legitimate exercise of their functions.

## Article 56: Trade union rights and collective agreements

1. Trade unions shall be responsible for defending and promoting the defence of the rights and interests of the workers they represent.
2. Trade unions shall possess 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 give their opinion on economic and social plans and supervise their implementation;
  - d. To be represented on social conciliation bodies, as laid down by law;
  - e. To take part in corporate restructuring processes, especially in relation to training actions or when working conditions are altered.
3. Trade unions shall be responsible for the exercise of 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 validity of their provisions.

## Article 57: Right to strike and prohibition of lock-outs

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

## Title III: Economic, social and cultural rights and duties

### Chapter I: Economic rights and duties

#### Article 58: Right to work

1. Everyone shall possess the right to work.
2. In order to ensure the right to work, the state shall be 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. Cultural and technical training and vocational development for workers.

## Article 59: Workers' rights

1. Regardless of age, sex, race, citizenship, place of origin, religion and political and ideological convictions, every worker shall possess 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 in keeping with social dignity and in such a way as to provide personal fulfilment and to make it possible to reconcile professional 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 unemployed;
- f. To assistance and fair reparation when he is the victim of a work-related accident or occupational illness.

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

- a. Setting and updating a national minimum wage which, among other factors, shall have particular regard to workers' needs, increases in the cost of living, the level to which the sectors of production have developed, the requirements imposed by economic and financial stability, and the accumulation of capital for development purposes;
- b. Setting national limits on working hours;
- c. Ensuring special work-related protection for women during pregnancy and following childbirth, as well as for minors, the disabled and those whose occupations are particularly strenuous or take place 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;

- Equality regardless of gender
- Equality regardless of creed or belief
- Equality regardless of political party
- Equality regardless of nationality
- Equality regardless of origin
- Equality regardless of race
- Equality regardless of religion
- Equality regardless of age

- Right to equal pay for work
- Right to reasonable standard of living

- Human dignity

- Right to safe work environment

- Right to rest and leisure

- State support for the unemployed

- Right to reasonable standard of living

- f. Protecting student workers' working conditions.
3. Salaries shall enjoy special guarantees, as laid down by law.

## Article 60: Consumer rights

1. Consumers shall possess 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 regulated by law and all forms of concealed, indirect or fraudulent advertising shall be prohibited.
3. Consumers' associations and consumer cooperatives shall possess the right, as laid down by law, to receive support from the state and to be heard in relation to consumer-protection issues, and shall possess legitimatio ad causam in defence of their members or of any collective or general interests.

## Article 61: Private enterprise, cooperatives and worker management

1. Private economic enterprise shall be undertaken freely within the overall frameworks laid down by this Constitution and the law and with regard for the general interest.
2. Everyone shall possess the right to freely form cooperatives, subject to compliance with cooperative principles.
3. Cooperatives shall pursue their activities freely within the overall framework laid down by law and may group themselves 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 the state or any public body possesses an interest.
5. There shall be the right to worker management, as laid down by law.

## Article 62: Right to private property

1. Everyone shall be guaranteed the right to private property and to the transmission thereof in life or upon death, as laid down by this Constitution.
2. Requisitions and expropriations in the public interest shall only occur on a legal basis and upon payment of just compensation.

## Chapter II: Social rights and duties

### Article 63: Social security and solidarity

1. Everyone shall have the right to social security.
2. The state shall be 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 any 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 ability to work.

• Protection of consumers

• Right to establish a business  
• Right to competitive marketplace

• Right to own property  
• Right to transfer property

• Protection from expropriation

• General guarantee of social security

• State support for the elderly  
• State support for the unemployed  
• State support for the disabled  
• State support for children

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 operation of private charitable institutions and other non-profit institutions that are recognised to be in the public interest.

## Article 64: Health

1. Everyone shall possess the right to health protection and the duty to defend and promote health.
2. The right to health protection shall be fulfilled:
  - a. By means of a national health service that shall be universal and general and, 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 also promoting physical fitness and sport at school and among the people; and by developing both the people's health and hygiene education and healthy living practises.
3. In order to ensure enjoyment of the right to the protection of health, the state shall be under a primary duty:
  - a. To guarantee access by every citizen, regardless of his economic situation, to preventive, curative and rehabilitative medical care;
  - b. To guarantee a rational and efficient nationwide coverage in terms of healthcare units and human resources;
  - c. To work towards the public funding of the costs of medical care and medicines;
  - d. To regulate and inspect corporate and private forms of medicine and articulate 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. To regulate and control the production, distribution, marketing, sale and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis;
  - f. To establish policies for the prevention and treatment of drug abuse.
4. The national health service shall possess a decentralised and participatory management system.

## Article 65: Housing and urban planning

• Right to shelter

1. Everyone shall possess the right for themselves and their family to have an adequately sized dwelling that provides them with hygienic and comfortable conditions and preserves personal and family privacy.
2. In order to ensure enjoyment of the right to housing, the state shall be charged with:
  - a. Planning and implementing a housing policy that is embodied in general town and country planning documents and supported by urban planning documents 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 private construction, subject to the general interest, and access to owned or rented housing;
  - d. Encouraging and supporting local community initiatives that work towards the resolution of their housing problems and foster the formation of housing and self-building cooperatives.
3. The state shall undertake a policy that works towards the establishment of a rental system which is compatible with family incomes and access to individual housing.
4. The state, the autonomous regions and local authorities shall lay down 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 urban planning, and shall expropriate such land as may be necessary to the fulfilment of the purposes of public-use urban planning.
5. Interested parties shall be entitled to participate in the drawing up of urban planning instruments and any other physical town and country planning instruments.

• Protection of environment

## Article 66: Environment and quality of life

1. Everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it.
2. In order to ensure enjoyment of the right to the environment within an overall framework of sustainable development, acting via appropriate bodies and with the involvement and participation of citizens, the state shall be 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 maintain ecological stability, with respect for the principle of inter-generational solidarity;
- e. Acting 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 of a sectoral nature;
- g. Promoting environmental education and respect for environmental values;
- h. Ensuring that 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 shall possess 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 shall particularly be charged with:
  - a. Promoting the social and economic independence of family units;
  - 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 such legal and technical arrangements as are needed for motherhood and fatherhood to be consciously planned;
  - e. Regulating assisted conception in such a way as to safeguard the dignity of the human person;
  - f. Regulating taxes and social benefits in line with family costs;
  - g. After first consulting the associations that represent the family, drawing up and implementing a global and integrated family policy;

• Reference to fraternity/solidarity

• Right to found a family

• Human dignity

- h. By concerting the various sectoral policies, promoting the reconciliation of professional 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 shall possess 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 shall constitute eminent social values.
3. Women shall possess the right to special protection during pregnancy and following childbirth, and female workers shall also possess the right to an adequate period of leave from work without loss of remuneration or any privileges.
4. The law shall regulate the grant to mothers and fathers of an adequate period of leave from work, in accordance with the interests of the child and the needs of the family unit.

## Article 69: Childhood

1. With a view to their integral development, children shall possess the right to protection by society and the state, especially from all forms of abandonment, discrimination and oppression and from the abusive 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 shall be prohibited as laid down by law.

## Article 70: Youth

1. In order to ensure the effective enjoyment of their economic, social and cultural rights, young people shall receive 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 shall 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. Acting in cooperation with families, schools, businesses, 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 shall fully enjoy the rights and shall be subject to the duties enshrined in this Constitution, save the exercise or fulfilment of those for which their condition renders them unfit.
2. The state shall undertake 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, shall educate society and make it aware of the duties of respect and solidarity towards such citizens, and shall ensure that they effectively enjoy their rights, without prejudice to the rights and duties of their parents or guardians.
3. The state shall support disabled citizens' organisations.

• Reference to fraternity/solidarity

## Article 72: The elderly

1. The elderly shall possess 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 people 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 shall possess 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 public life.
3. Acting in cooperation with the media, cultural associations and foundations, cultural and recreational groups, cultural heritage associations, residents' associations 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 stimulate and support scientific research and creation and technological innovation, in such a way as to ensure their freedom and autonomy, reinforce competitiveness and ensure cooperation between scientific institutions and businesses.

• Right to development of personality  
• Reference to fraternity/solidarity

• Reference to science  
• Right to enjoy the benefits of science

### Article 74: Education

1. Everyone shall possess the right to education, and the right to equal opportunities and to access to and success in schooling shall be guaranteed.
2. In implementing the education policy, the state shall be charged with:
  - a. Ensuring universal, compulsory and free basic education;
  - b. Creating a public, and developing the general, preschool system;

• Compulsory education  
• Free education

- 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 rules governing access to university and other higher education institutions shall guarantee equal opportunities in and the democratisation of the education system, and shall have due regard for 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 autonomously draw up their own by-laws and shall enjoy scientific, pedagogical, administrative and financial autonomy.

## Article 77: Democratic participation in education

1. Teachers and students shall possess 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 teachers', students' and parents' associations, communities and scientific institutions participate in drawing up the education policy.

## Article 78: Cultural enjoyment and creation

1. Everyone shall possess the right to cultural enjoyment and creation, together with the duty to preserve, defend and enhance the cultural heritage.

2. Acting in cooperation with all cultural agents, the state shall be 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 joint creation in all its many forms and expressions, and that stimulate 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 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. Coordinating the cultural policy with the other sectoral policies.

## Article 79: Physical education and sport

1. Everyone shall possess the right to physical education and sport.
2. Acting in cooperation with schools and sporting associations and groups, the state shall be charged with promoting, stimulating, guiding and supporting the practise and dissemination of physical education and sport, and preventing violence in sport.

# Part II: Organisation of the economy

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## Title I: General principles

### Article 80: Fundamental principles

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

- a. Economic power shall be subordinated to democratic political power;
- b. The public, private and cooperative and social sectors shall coexist in the ownership of the means of production;
- c. Within the overall framework of a mixed economy, there shall be freedom of business initiative and organisation;
- d. When so required by the public interest, natural resources and the means of production shall be publicly owned;
- e. Economic and social development shall be democratically planned;

\* Ownership of natural resources

- f. The cooperative and social sector shall enjoy protection in relation to the ownership of the means of production;
- g. Organisations that represent workers and organisations that represent businesses shall participate in the definition of the main economic and social measures.

## Article 81: Primary duties of the state

In the economic and social field the state shall be under a primary 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 opportunity 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 towns and the 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 the said regions' progressive integration into broader economic areas with a national or international scope;
- f. To ensure the efficient operation of the markets, in such a way as to guarantee a balanced competition between businesses, counter monopolistic forms of organisation and repress abuses of dominant positions and other practises that are harmful to the general interest;
- g. To develop economic relations with all peoples, while always safeguarding national independence and the interests of both the Portuguese people and the country's economy;
- h. To eliminate very large estates and restructure small farms;
- i. To guarantee consumer rights and interests;
- j. To create the legal and technical instruments needed to democratically plan economic and social development;

• Mentions of social class

• Right to competitive marketplace

• Protection of consumers

- 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 rationally manages water resources.

## Article 82: Sectors of ownership of the means of production

1. The coexistence of three sectors of ownership of the means of production shall be guaranteed.
2. The public sector shall comprise such means of production as should rightly belong to and be managed by the state or other public bodies.
3. Without prejudice to the provisions of the following paragraph, the private sector shall comprise such means of production as should rightly belong to or be managed by private individuals or private groups.
4. The cooperative sector shall specifically comprise:
  - a. Means of production that cooperatives possess and manage in accordance with cooperative principles, without prejudice to such specific provisions as the law may lay down 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 nonprofit bodies corporate, the primary objective of which is charitable, particularly bodies of a mutualist nature.

## Article 83: Requirements for compulsory purchase

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

## Article 84: Public domain

1. The following shall belong to the public domain:
  - a. Territorial waters, together with their beds and the adjacent seabed, and such lakes, lagoons and watercourses as 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 such rocks, ordinary earth and other materials as may habitually be used for construction;
  - d. Roads;
  - e. National railway lines;
  - f. Such other property as may be 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 rules, 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 such worker-management experiments as are viable.

### **Article 86: Private businesses**

1. The state shall encourage business activity, particularly that of small and medium-sized enterprises, and shall inspect fulfilment of the respective legal obligations, especially by businesses that engage in activities that are of general interest to the economy.
2. The state shall only intervene in the management of private businesses on a transitional basis, in cases that are expressly provided for by law and, as a general rule, subject to prior judicial ruling.
3. The law may define basic sectors in which private businesses and other bodies of a similar nature are forbidden to act.

### **Article 87: Foreign economic activity and investment**

The law shall regulate economic activity and investment by foreign private individuals and bodies corporate, 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 shall 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 said units' management.

## **Title II: Plans**

### **Article 90: Objectives**

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 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 accordance with the laws governing their Major Options and may incorporate specific programmes with a geographic and sectoral scope.
2. Government bills in relation to the Major Options shall be accompanied by reports setting out the grounds therefore.
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 shall be the body 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 such other functions as may be allocated to it by law.
2. The law shall lay down the composition of the Economic and Social Council, which shall particularly include representatives of the Government, the organisations that represent workers, business activities and families, the autonomous regions and local authorities.
3. The law shall also lay down the way in which the Economic and Social Council is organised and operates, together with the status and role of its members.

• Economic plans  
• Protection of environment

• Economic plans

## **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 and agricultural workers, 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 such other means of production as 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 an agrarian planning and reconversion and forestry development policy, 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, shall 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 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 rules governing the rental and other forms of use of non-owned land in such a way as to guarantee the farmer's security and legitimate interests.
2. The fee-farming and colony systems shall be prohibited and the conditions that farmers 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. Such state assistance shall particularly comprise:
  - a. The grant of technical assistance;
  - b. The creation of forms of marketing and sales support upstream and downstream from production itself;
  - c. Support for the coverage of risks resulting from unpredictable or uncontrollable climatic or phytopathological conditions;
  - 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 drawing up the agricultural policy

The participation of rural workers and farmers in drawing up the agricultural policy shall be ensured 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 practises;
- 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 reinforcement of industrial and technological innovation;
- c. The increase of the competitiveness and productivity of industrial businesses;
- d. Support for small and medium-sized enterprises and, in general, for ventures and businesses that generate jobs and foster exports or substitutes for imports;
- e. Support for the international prominence of Portuguese businesses.

## 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 shall be the national central bank and shall perform its functions as laid down by law and in accordance with the international rules 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 bodies and to ensure a just distribution of income and wealth.
2. Taxes shall be created by laws, which shall determine their applicability and rate, fiscal benefits and such guarantees as may accrue to taxpayers.
3. No one shall be obliged to pay taxes that are not created in accordance with this Constitution, are retroactive in nature, or are not charged or 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 family needs and incomes.
2. Businesses shall essentially be taxed on their real income.
3. The taxation of assets shall contribute to equality between citizens.
4. Consumer taxation shall aim to adapt the structure of consumption to changes in the requirements for economic development and social justice, and shall 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 accordance 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 organisational and functional classification thereof, 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 use of public credit, and the criteria for governing such alterations as the Government may make during the Budget's execution in the organisational headings of each budget programme passed by the Assembly of the Republic, all with a view to the Budget's full implementation.

## Article 106: Drawing up the Budget

1. The Budget Law shall be drawn up, organised, put to the vote and implemented in accordance with the applicable framework law, which shall include the rules governing the drawing up and implementation of the budgets of autonomous funds and departments.
2. The Budget bill shall be presented and put to the vote within such time limits as the law may set, and the law shall lay down the procedures to be adopted when such 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. Such financial transfers between Portugal and other countries as affect the proposed Budget;
- g. Fiscal benefits and an estimate of the ensuing reduction in income.

## Article 107: Scrutiny

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

# Part III: Organisation of political power

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## Title I: General principles

### Article 108: Source and exercise of power

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

### Article 109: Citizens' participation in politics

The direct and active participation in politics by men and women is a fundamental instrument in the consolidation of the democratic system, and the law shall 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: Bodies that exercise sovereign power

1. The President of the Republic, the Assembly of the Republic, the Government and the Courts shall constitute bodies that exercise sovereign power.
2. The formation, composition, responsibilities and power and modus operandi of the bodies that exercise sovereign power shall be those laid down by this Constitution.

### Article 111: Separation and interdependence

1. Bodies that exercise sovereign power shall be separate and interdependent as laid down by this Constitution.
2. No body that exercises sovereign power and no body that belongs to an autonomous region or local authority shall delegate its powers to other bodies, save in such cases and under such terms as are expressly laid down by this Constitution and the law.

## Article 112: Legislation

1. Legislation shall comprise laws, executive laws and regional legislative decrees.
2. Without prejudice to the subordination to the corresponding laws of executive laws that are enacted under legislative authorisation and of those that develop the basic general elements of the legal systems, laws and executive laws shall possess equal force.
3. Organisational laws, laws that must be passed by a two-thirds majority, and laws which under this Constitution are compulsory legal prerequisites for other laws or which must be obeyed by other laws, shall possess superior force.
4. Without prejudice to the provisions of Article 227(1)b and c, legislative decrees shall possess a regional scope and shall address such matters set out in the political and administrative statute of the autonomous region in question as are not the exclusive responsibility of the bodies that exercise sovereign power.
5. No law shall create other categories of legislation, or grant other types of act the power to interpret, integrate, modify, suspend or revoke any of its provisions in such a way as to produce effects in relation to third parties.
6. Government regulations shall take the form of regulatory orders 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 lay down the subjective and objective power to issue them.
8. The transposition of European Union legislation and other legal acts into the internal legal system shall take the form of a law, an executive law, or, in accordance with (4) above, a regional legislative decree.

## Article 113: General principles of electoral law

1. As a general rule, the officeholders of the bodies that exercise sovereign power, of regional authorities and of local authorities shall be appointed by direct, secret and periodic suffrage.
2. Without prejudice to the provisions of Articles 15(4) and (5) and 121(2), electoral registration shall be officious, compulsory and permanent and there shall be a single registration system for all elections that are held by direct, universal suffrage.
3. Election campaigns shall be governed by the following principles:
  - a. Freedom of propaganda;
  - b. Equal opportunities and treatment for all candidatures;
  - c. The impartiality of public bodies towards all candidatures;
  - d. The transparency and scrutiny of electoral accounts.
4. Citizens shall possess the duty to cooperate with the electoral authorities in such ways as the law may lay down.
5. Votes cast shall be converted into seats in accordance with the principle of proportional representation.
6. Any act which dissolves a collegiate body that is based on direct suffrage shall also set the date of a new election thereto. Such elections shall be held within the following sixty days and in accordance with the electoral law that is in force at the time of the dissolution, failing which they shall be legally invalid.

7. The power to rule on the correctness and validity of electoral acts shall pertain to the courts.

## Article 114: Political parties and right to opposition

1. Political parties shall hold seats in the bodies that are elected by universal, direct suffrage in accordance with their proportion of election results.
2. Minorities shall possess the right to democratic opposition, as laid down by this Constitution and the law.
3. Political parties that hold seats in the Assembly of the Republic and do not form part of the Government shall particularly possess the right to be regularly and directly informed by the Government as to the situation and progress of the main matters of public interest. Political parties that hold seats in the Legislative Assemblies of the autonomous regions or in any other directly elected assemblies shall possess the same right in relation to the respective executive, in the event that they do not form part thereof.

## Article 115: Referenda

1. In cases provided for in, and as laid down by, this Constitution and the law, following a proposal from the Assembly of the Republic or the Government in relation to matters that fall under their respective responsibilities, 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 be held on the initiative of citizens who submit a request to the Assembly of the Republic. Such requests shall be submitted and considered under the terms and within the time limits laid down by law.
3. The object of a referendum shall be limited to important issues concerning the national interest upon which the Assembly of the Republic or the Government must decide by passing an international agreement or by passing legislation.
4. The following shall not be subject to referendum:
  - a. Alterations to this Constitution;
  - b. Issues and acts with a budgetary, tax-related or financial content;
  - c. The matters provided for in Article 161, without prejudice to the provisions of the following paragraph;
  - d. The matters provided for in Article 164, save the provisions of subparagraph i).
5. The provisions of the previous paragraph shall not prejudice the submission to referendum of such important issues concerning the national interest as should be the object of an international agreement pursuant to Article 161i, except when they concern peace or the rectification of borders.
6. Each referendum shall only address one matter. Questions shall be objectively, clearly and precisely formulated, shall solicit yes or no answers, and shall not exceed a maximum number to be laid down by law. The law shall also lay down the other terms governing the formulation and holding of referenda.

• Referenda

• Referenda



7. Referenda shall not be called or held between the dates on which general elections for the bodies that exercise sovereign power, elections for the self-government bodies of the autonomous regions, for local authority bodies and 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 Assembly of the Republic or the Government, to compulsory prior determination of their constitutionality and legality.
9. The provisions of Article 113(1), (2), (3), (4) and (7) shall apply to referenda, mutatis mutandis.
10. Draft referenda that are refused by the President of the Republic or are negated by the electorate shall not be resubmitted during the same legislative session, save new elections to the Assembly of the Republic, or until the Government resigns or is removed.
11. Referenda shall only be binding in the event that 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: Collegiate bodies

1. Save in cases provided for by law, meetings of assemblies that act as bodies which exercise sovereign power, as bodies of autonomous regions or as local authority bodies shall be held in public.
2. Collegiate bodies shall take their decisions in the presence of the majority of their prescribed membership.
3. Save in cases provided for by this Constitution, the law and the applicable rules of procedure, collegiate bodies shall take their decisions by a simple majority and abstentions shall not count in the calculation thereof.

## Article 117: Status of political officeholders

1. Political officeholders shall be politically, civilly and criminally liable for their actions and omissions in the exercise of their functions.
2. The law shall lay down both the duties, responsibilities, liabilities and incompatibilities of political office and the consequences of any breach thereof, and the rights, privileges and immunities that apply thereto.
3. The law shall specify the special crimes for which political officeholders may be held liable, together with the applicable penalties and the effects thereof, which may include removal from office or loss of seat.

## Article 118: Renewal principle

1. No one shall hold any national, regional or local political office for life.
2. The law may specify 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. Laws concerning the Constitution;

- b. International agreements and the applicable ratification notices, together with the rest of the notices in relation thereto;
  - c. Laws, executive laws and regional legislative decrees;
  - d. Decrees issued by the President of the Republic;
  - e. Resolutions of the Assembly of the Republic and of the Legislative Assemblies of the autonomous regions;
  - f. The Rules of Procedure of the Assembly of the Republic, the Council of State and the Legislative Assemblies of the autonomous regions;
  - g. The rulings of the Constitutional Court and such other court rulings to which the law grants generally binding force;
  - h. Regulatory orders and other decrees and regulations issued by the Government, as well as decrees of the Representatives of the Republic to the autonomous regions and regional regulatory decrees;
  - i. The results of elections to bodies that exercise sovereign power, bodies of autonomous regions and local authority bodies, as well as to the European Parliament, and 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 of bodies that exercise sovereign power, bodies of autonomous regions and local authority bodies shall cause such acts to be without legal force.
  3. The law shall lay down the means by which other acts shall 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 shall represent the Portuguese Republic, shall guarantee national independence, the unity of the state and the proper functioning of the democratic institutions, and shall be ex officio Commander-in-Chief of the Armed Forces.

#### Article 121: Election

1. The President of the Republic shall be elected by the universal, direct, secret suffrage of all Portuguese citizens who are registered to vote in Portuguese territory and, in accordance with the following paragraph, of all Portuguese citizens who reside abroad.
2. The law shall regulate the right to vote of Portuguese citizens who reside abroad, to which end it shall 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

Citizens of Portuguese origin who are registered to vote and have attained the age of thirty-five shall be 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, shall not be permitted.
2. In the event that the President of the Republic resigns, he shall not stand again in the next elections, or in any that take place in the five years immediately following his resignation.

## Article 124: Nominations

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

## 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 that office becomes vacant.
2. Elections shall not take place during the ninety days prior to or following the date of elections to the Assembly of the Republic.
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 of time.

## 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 shall not be deemed 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 date 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 shall take office before the Assembly of the Republic.

2. His installation shall take 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.

• Oaths to abide by constitution

3. Upon taking office the President of the Republic elect shall take the following oath:

I swear by my honour to faithfully perform the office with 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

• Head of state term length

1. The term of office of President of the Republic shall be five years and shall end upon installation of the new President elect.
2. In the event that the office falls vacant, the newly elected President of the Republic shall commence a new term of office.

## Article 129: Absence from Portuguese territory

1. The President of the Republic shall not absent himself from Portuguese territory without the consent of the Assembly of the Republic or, in the event that the Assembly is not in full session, of its Standing Committee.
2. Consent shall be 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 shall notify the Assembly of the Republic of such cases in advance.
3. Failure to comply with the provisions of (1) above shall automatically entail loss of office.

• Head of state removal

## Article 130: Criminal liability

• Head of state immunity

1. The President of the Republic shall answer before the Supreme Court of Justice for crimes committed in the performance of his functions.
2. Proceedings may only be initiated by the Assembly of the Republic, upon a motion subscribed by one fifth and a decision passed by a two-thirds majority of all the Members in full exercise of their office.
3. Conviction shall cause removal from office and disqualification from re-election.
4. For crimes that are not committed in the performance of his functions, the President of the Republic shall answer 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 Assembly of the Republic.
2. Such resignation shall take effect when the Assembly of the Republic takes note thereof, without prejudice to its subsequent publication in the Diário da República.

## Article 132: Acting President

• Head of state replacement

1. In the event that the President of the Republic is temporarily unable to perform his functions, or that the office is vacant and until such time as the new President elect is installed, his functions shall be performed by the President of the Assembly of the Republic, or, in the event that the latter is unable to do so, by his substitute.

2. For such time as he acts as acting President of the Republic, the President of the Assembly of the Republic or his substitute's mandate as Member of the Assembly shall automatically be suspended.
3. The President of the Republic shall retain the rights and privileges inherent to his office during such time as he is temporarily unable to perform his functions.
4. An acting President of the Republic shall enjoy all the honours and prerogatives of the office, but his rights shall be those of the office to which he was elected.

## Chapter II: Responsibilities

### Article 133: Responsibilities in relation to other bodies

In relation to other bodies the President of the Republic shall be responsible for:

- a. Chairing the Council of State;
- b. In accordance with electoral law, setting the date for elections for President of the Republic, Members of the Assembly of the Republic, Members of the European Parliament and members of the Legislative Assemblies of the autonomous regions;
- c. Calling extraordinary sittings of the Assembly of the Republic;
- d. Addressing messages to the Assembly of the Republic and the Legislative Assemblies of the autonomous regions;
- e. Subject to the provisions of Article 172 and after first consulting both the parties with seats in the Assembly and the Council of State, dissolving the Assembly of the Republic;
- f. Appointing the Prime Minister pursuant to Article 187(1);
- g. Removing the Government in accordance with Article 195(2), and discharging the Prime Minister from office pursuant to Article 186(4);
- h. Upon a proposal from the Prime Minister, appointing members of the Government and discharging them from office;
- i. When asked to do so by the Prime Minister, chairing 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, dissolving such Legislative Assemblies;
- l. After first consulting the Government, appointing the Representatives of the Republic to the autonomous regions and discharging them from office;

• Dismissal of the legislature

• Head of government selection

• Cabinet removal  
• Head of government removal

• Cabinet removal

• Attorney general

m. Upon a proposal from the Government, appointing the President of the Audit Court and the Attorney General and discharging them from office;

n. Appointing five members of the Council of State and two members of the Supreme Judicial Council;

o. Chairing the Supreme National Defence Council;

• Selection of active-duty commanders

p. Upon a proposal from the Government, appointing the Chief of the General Staff of the Armed Forces and, after consulting the Chief of the General Staff of the Armed Forces, the Deputy Chief of the General Staff of the Armed Forces if any, and the Chiefs of Staff of the three armed services.

• Head of state powers

## Article 134: Personal responsibilities

The President of the Republic shall be personally responsible for:

a. Performing the functions of Commander-in-Chief of the Armed Forces;

• Head of government decree power

b. Enacting laws, executive laws and regulatory orders and having them published, and signing both resolutions of the Assembly of the Republic that pass international agreements and the rest of the Government's decrees;

c. Submitting important issues of national interest, as laid down in Article 115, and those referred to in Articles 232(2) and 256(3), to referendum;

• Emergency provisions

d. Declaring a state of siege or a state of emergency in compliance with the provisions of Articles 19 and 138;

e. Pronouncing upon all emergencies that are of serious consequence to the life of the Republic;

• Power to pardon

f. After first consulting the Government, pardoning offences or commuting sentences;

• Head of government decree power

g. Asking the Constitutional Court to undertake a prior review of the constitutionality of the rules laid down by laws and executive laws and in international agreements;

h. Asking the Constitutional Court to rule whether legal provisions or statutes are unconstitutional due to any inclusion or omission;

i. Awarding decorations in accordance with the law, and performing the office of Grand Master of Portugal's honorary orders.

## Article 135: Responsibilities in international relations

In international relations the President of the Republic shall be responsible for:

- a. Appointing ambassadors and extraordinary envoys upon a proposal from the Government, and accrediting foreign diplomatic representatives;
- b. Once they have been duly passed, ratifying international treaties;
- c. Upon a proposal from the Government, after consulting the Council of State and subject to authorisation by the Assembly of the Republic, or, if the Assembly is not sitting and it is not possible to arrange for it to sit immediately, by its Standing Committee, declaring war in the case of effective or imminent aggression and making peace.

## Article 136: Enactment and veto

1. Within twenty days of the receipt of any decree of the Assembly of the Republic for enactment as a law, or of the publication of a Constitutional Court ruling that does not declare any of the decree's provisions unconstitutional, the President of the Republic shall either enact the decree or exercise the right of veto. In the latter case he shall send a message setting out the grounds therefore and requesting that the statute be reconsidered.
2. If the Assembly of the Republic confirms its original vote by an absolute majority of all the Members in full exercise of their office, the President of the Republic shall enact the decree within eight days of receiving it.
3. However, 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 shall be 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 sectors in relation to the ownership of the means of production;
  - c. Such regulations governing the electoral acts provided for by this Constitution as do not take the form of an organic law.
4. Within forty days of the receipt of any Government decree for enactment, or of the publication of a Constitutional Court ruling that does not declare any of the decree's provisions unconstitutional, the President of the Republic shall either enact the decree or exercise his right of veto. In the latter case he shall 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

In the event that the President of the Republic fails to enact or sign any of the acts provided for in Article 134(b), the said act shall be legally invalid.

## Article 138: Declaration of a state of siege or a state of emergency

1. Declaration of a state of siege or a state of emergency shall require prior consultation of the Government and authorisation by the Assembly of the Republic, or, if the Assembly is not sitting and it is not possible to arrange for it to sit immediately, by its Standing Committee.
2. In the event that a declaration of a state of siege or a state of emergency is authorised by the Assembly of the Republic's Standing Committee, such declaration shall require confirmation 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 shall not undertake any of the acts provided for in Articles 133e and n and 134c.
2. Acting Presidents of the Republic shall only undertake any of the acts provided for in Articles 133b, c, f, m and p, 134a and 135a 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 133h, j, l, m and p, 134b, d and f) and 135a, b and c shall require counter-signature by the Government.
2. In the event that the Government does not counter-sign any such act, the said act shall be legally invalid.

## Chapter III: Council of State

### Article 141: Definition

The Council of State shall be the political body that advises the President of the Republic.

### Article 142: Composition

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

- a. The President of the Assembly of the Republic;
- b. The Prime Minister;
- c. The President of the Constitutional Court;
- d. The Ombudsman;
- e. The presidents of the regional governments;



- f. Such former Presidents of the Republic as were elected under this Constitution and were not removed from office;
- g. Five citizens whom the President of the Republic shall appoint for the period of his term of office;
- h. Five citizens whom the Assembly of the Republic shall elect in accordance with the principle of proportional representation for the period of the legislature.

### **Article 143: Installation and term of office**

1. The members of the Council of State shall be installed by the President of the Republic.
2. Those members of the Council of State who are provided for in Article 142a to e shall continue to be members for as long as they remain in the respective offices.
3. Those members of the Council of State who are provided for in Article 142g and h shall continue to be members until their replacements are installed.

### **Article 144: Organisation and proceedings**

1. The Council of State shall be responsible for drawing up its own Rules of Procedure.
2. Council of State meetings shall not be public.

### **Article 145: Responsibilities**

The Council of State shall be responsible for:

- a. Giving its opinion on dissolutions of the Assembly of the Republic and the Legislative Assemblies of the autonomous regions;
- b. Giving its opinion on the removal of the Government in the case provided for in Article 195(2);
- c. Giving its opinion on declarations of war and the making of peace;
- d. Giving its opinion on the acts of acting Presidents of the Republic referred to in Article 139;
- e. Giving its opinion on other cases provided for by this Constitution, and in general and when asked to do so by the President of the Republic, advising him in the exercise of his office.

### **Article 146: Issue of opinions**

The Council of State shall issue the opinions provided for in Article 145a to e at a meeting which the President of the Republic shall call for that purpose, and such opinions shall be made public at the time of the act to which they refer.

## Title III: Assembly of the Republic

### Chapter I: Status, role and election

#### Article 147: Definition

The Assembly of the Republic shall be the assembly that represents all Portuguese citizens.

#### Article 148: Composition

The Assembly of the Republic shall possess 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 shall be elected for constituencies that shall be geographically defined by law. The law may create plurinomial and uninominal constituencies and lay down the nature and complementarity thereof, all in such a way as to ensure that votes are converted into seats in accordance with the proportional representation system and using d'Hondt's highest-average rule.
2. With the exception of the national constituency, if any, the number of Members for each plurinomial constituency in Portuguese territory shall be proportional to the number of citizens registered to vote therein.

#### Article 150: Eligibility

Save such restrictions as electoral law may lay down in relation to local incompatibilities or the exercise of certain offices, all Portuguese citizens who are registered to vote shall be eligible for election.

#### Article 151: Nominations

1. Nominations shall be submitted by political parties as laid down by law. Parties may submit such nominations individually or in coalition and their lists of candidates may include citizens who are not registered members of any of the parties in question.
2. No one shall be a candidate for more than one constituency of the same nature, with the exception of the national constituency, if any. No one may appear on more than one list.

#### Article 152: Political representation

1. The law shall not limit the conversion of votes into seats by requiring a minimum national percentage of votes cast.
2. Members shall represent the whole country and not the constituencies for which they are elected.

• Structure of legislative chamber(s)

• First chamber selection

• Electoral districts

• Minimum age for first chamber  
• Eligibility for first chamber

## Article 153: Beginning and end of term of office

1. Members' terms of office shall commence upon the first sitting of the Assembly of the Republic following elections thereto and shall end upon the first sitting following the subsequent elections thereto, without prejudice to the suspension or termination of any individual mandate.
2. Electoral law shall regulate the filling of vacancies that arise in the Assembly and, in cases in which there are important grounds for doing so, the temporary substitution of Members.

• Replacement of legislators

## Article 154: Incompatibilities and prevention from exercise of office

1. Members who are appointed to the Government shall not exercise the office of Member until they leave the Government, and shall be temporarily substituted in accordance with the previous Article.
2. The law shall lay down any other incompatibilities.
3. The law shall regulate cases and situations in which Members shall require the Assembly of the Republic's authorisation in order to be jurors, arbiters, experts or witnesses.

• Eligibility for cabinet

## Article 155: Exercise of the office of Member

1. Members shall exercise their mandates freely and shall be guaranteed the conditions needed to perform their functions effectively, particularly those needed to maintain the indispensable contact with registered electors and those needed to ensure that the latter are regularly kept informed.
2. The law shall regulate the circumstances under which the absence of Members from official acts or proceedings that do not concern the Assembly of the Republic, due to Assembly sittings or missions, shall constitute valid grounds for adjourning the said acts or proceedings.
3. Public bodies shall possess the duty, as laid down by law, to cooperate with Members in the performance of their functions.

## Article 156: Members' powers

Members shall have the following powers:

- a. To submit draft amendments to the Constitution;
- b. To submit Member's bills, draft amendments to the 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 by 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 period of time, save the provisions of the law concerning state secrets;

• Referenda

• Legislative oversight of the executive

e. To request and obtain from the Government or the governing bodies of any public entity, such information and documents and official publications as the Member or Members in question may deem useful to the exercise of their mandate;

• Legislative oversight of the executive

f. To request the formation of parliamentary committees of inquiry;

g. Those laid down by the Rules of Procedure.

• Immunity of legislators

## Article 157: Immunities

1. Members shall not be civilly or criminally liable for or subject to disciplinary proceedings in relation to their votes or the opinions they express in the performance of their functions.
2. Members shall not appear as makers of declarations or defendants without the Assembly's authorisation. In the event of strong evidence of the commission of a serious crime punishable by imprisonment for a maximum term of more than three years, the Assembly shall obligatorily authorise a Member's appearance as defendant.
3. No Member may be detained, arrested or imprisoned without the Assembly's authorisation, save for a serious crime punishable by the type of prison term referred to in the previous paragraph and in flagrante delicto.
4. In the event that criminal proceedings are brought against any Member and he is definitively charged, the Assembly shall decide whether or not he is to be suspended so that the proceedings can take their course. In the event of a crime of the type referred to in the previous paragraphs, the Assembly shall obligatorily suspend the Member.

## Article 158: Rights and privileges

Members shall enjoy the following rights and privileges:

- a. Deferment of military, civic and civil defence service;
- b. Freedom of movement and the right to a special passport during official trips abroad;
- c. A special identity card;
- d. Such allowances as the law may lay down.

## Article 159: Duties

Members shall possess the following duties:

- a. To attend plenary sittings and any committees to which they belong
- b. To perform such offices in the Assembly and such functions as they are appointed to upon proposals by their respective parliamentary groups;

- c. To take part in voting.

## Article 160: Loss and resignation of seat

1. Members shall lose their seat in the event that:
  - a. They become subject to any of the disqualifications or incompatibilities laid down by law;
  - b. They do not take up their seat in the Assembly, or they exceed the number of absences laid down by 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 may resign their seat by means of a written declaration.

## Chapter II: Responsibilities

### Article 161: Political and legislative responsibilities

The Assembly of the Republic shall be responsible for:

- a. Passing amendments to the Constitution in accordance with Articles 284 to 289;
- b. Passing the political and administrative statutes of the autonomous regions and the laws governing the election of the members of their Legislative Assemblies;
- c. Making laws on all matters, save those that are the exclusive responsibility of the Government under this Constitution;
- d. Granting the Government authorisations to legislate;
- e. Granting the Legislative Assemblies of the autonomous regions the authorisations provided for in Article 227(1)b;
- f. Granting generic amnesties and pardons;
- g. Upon proposals from the Government, passing the laws on the Major Options of the National Plans and the State Budget;

- Finance bills
  - h. Authorising the Government to contract and grant loans and engage in other lending operations, apart from floating debt operations, laying down the general terms and conditions governing such loans and lending operations, and setting the upper limit for guarantees to be given by the Government in any given year;
- Treaty ratification
  - i. Passing treaties, particularly those that entail Portugal's participation in international organisations, friendship, peace, defence, the rectification of borders or military affairs, as well as international agreements that address matters which are the exclusive responsibility of the Assembly, or which the Government deems fit to submit to the Assembly for consideration;
- Referenda
  - j. Proposing to the President of the Republic that important issues of national interest be submitted to referendum;
- Emergency provisions
  - l. Authorising and confirming declarations of a state of siege or a state of emergency;
- Power to declare/approve war
  - m. Authorising the President of the Republic to declare war or to make peace;
- Regional group(s)
  - n. Pronouncing, as laid down by law, on such matters awaiting decision by European Union bodies as concern the sphere of its exclusive legislative responsibility;
  - o. Performing such other functions as this Constitution and the law may allocate to it.

## Article 162: Responsibility to scrutinise

In the performance of its scrutiny functions the Assembly of the Republic shall be responsible for:

- Legislative oversight of the executive
  - a. Scrutinising compliance with this Constitution and the laws and considering the actions of the Government and the Public Administration;
  - b. Considering the manner in which a declaration of a state of siege or a state of emergency has been applied;
- Head of government decree power
  - c. Considering executive laws, save those made under the Government's exclusive legislative responsibility, and considering the regional legislative decrees provided for in Article 227(1)b, both for the purpose of determining whether they should be amended or cease to be in force;
  - d. Receiving the accounts of the state and such other public bodies as the law shall lay down. Such accounts shall be submitted by 31 December of the following year, together with the opinion of the Audit Court and the other items needed to consider them;
  - e. Considering reports on the execution of National Plans.

## Article 163: Responsibilities in relation to other bodies

In relation to other bodies the Assembly of the Republic shall be responsible for:

- a. Witnessing the President of the Republic's installation;
- b. Consenting to the President of the Republic's absence from Portuguese territory;
- c. Promoting the bringing of proceedings against the President of the Republic for crimes committed in the performance of his functions, and deciding whether to suspend members of the Government in the case provided for in Article 196;
- d. Considering the Government's Programme;
- e. Voting on motions of confidence or no confidence in the Government;
- f. As laid down by law, supervising and considering Portugal's participation in the process of constructing the European Union;
- g. Under the proportional representation system, electing five members of the Council of State and those members of the Supreme Council of the Public Prosecutor's Office whom the Assembly is responsible for appointing;
- h. 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, electing ten judges to the Constitutional Court, the Ombudsman, the President of the Economic and Social Council, seven members of the Supreme Judicial Council, the members of the media regulatory body and the members of all other constitutional bodies, appointments to which are the responsibility of the Assembly of the Republic by law;
- i. As laid down by law, supervising the involvement of military contingents and security forces abroad.

## Article 164: Exclusive responsibility to legislate

The Assembly of the Republic shall possess exclusive responsibility to legislate on the following matters:

- a. Elections to bodies that exercise sovereign power;
- b. Rules to be used in referenda;
- c. The organisation, operation and proceedings of the Constitutional Court;
- d. The organisation of national defence, the definition of the duties derived therefrom and the basic general elements of the organisation, operation, re-equipping and discipline of the Armed Forces;

- e. Rules 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 seabed;
- h. Political associations and parties;
- i. The basic elements of the education system;
- j. The election of members of the Legislative Assemblies of the autonomous regions;
- l. The election of local government officeholders and other elections conducted by direct, universal suffrage, as well as elections to the remaining constitutional bodies;
- m. The status and role of the officeholders of bodies that exercise sovereign power and local government officeholders, as well as of the officeholders of the remaining constitutional bodies and of all those who 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 rules governing them;
- o. Restrictions on the exercise of rights by full-time military and militarised personnel on active service and by members of the police forces and security services;
- p. The rules governing the appointment of members of European Union bodies, with the exception of the Commission;
- q. The rules governing the Republic's intelligence system and state secrets;
- r. The general rules governing the drawing up and organisation of the budgets of the state, the autonomous regions and local authorities;
- s. The rules governing national symbols;
- t. The rules governing the finances of the autonomous regions;
- u. The rules governing the police forces and security services;
- v. The rules governing the organisational, administrative and financial autonomy of the President of the Republic's support services.

• Conditions for revoking citizenship

• Regional group(s)



## Article 165: Partially exclusive responsibility to legislate

1. Unless it also authorises the Government to do so, the Assembly of the Republic shall possess exclusive responsibility to legislate on the following matters:
  - a. People's status and legal capacity;
  - b. Rights, freedoms and guarantees;
  - c. The definition of crimes, sentences, security measures and the preconditions therefore, and the laying down of criminal procedure;
  - d. The general rules for punishing disciplinary infractions, and those governing administrative offences and the applicable proceedings;
  - e. The general rules governing requisitions and expropriations in the public interest;
  - f. The basic elements of the social security system and the national health service;
  - g. The basic elements of the rules for protecting nature, the ecological balance and the cultural heritage;
  - h. The general rules governing rural and urban rentals;
  - i. The creation of taxes and the fiscal system, and the general rules governing duties and other financial payments to public bodies;
  - j. The definition of sectors of ownership of the means of production, including that of basic sectors in which private businesses and other bodies of a similar nature shall be forbidden to act;
  - 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 rules governing economic and social development plans and the composition of the Economic and Social Council;
  - n. The basic elements 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 responsibilities of the courts and the Public Prosecutors' Office and the status and role of the respective judges, as well as the organisation and responsibilities of non-judicial conflict settlement bodies;

- q. The status and role of local authorities, including the rules governing local finances;
  - r. Participation in local government by residents' organisations;
  - s. Public associations, guarantees available to users of the Public Administration, and the Public Administration's civil liability;
  - t. The basic elements of the rules governing, and the scope of, the Public Administration;
  - u. The basic general elements of the status of public companies and public foundations;
  - v. The definition of, and the rules governing, property in the public domain;
  - x. The rules governing means of production that are integrated into the cooperative and social sector of ownership;
  - z. The basic elements of town and country and urban planning;
  - aa. The rules governing municipal police forces and the form in which they are created.
2. Laws that grant authorisation to legislate shall define the object, purpose, extent and duration of such authorisation, which may be extended.
  3. Without prejudice to their use in partial stages, authorisations to legislate shall not be used more than once.
  4. Authorisations shall lapse upon the resignation or removal of the Government to which they were granted, at the end of the legislature, or upon the dissolution of the Assembly of the Republic.
  5. Authorisations granted to the Government by the Budget law shall comply with the provisions of this 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 161a shall take the form of constitutional laws.
2. The acts provided for in Articles 164a to f, h, j, the first part of l, q and t and 255 shall take the form of organisational laws
3. The acts provided for in Article 161b to h shall take the form of laws.
4. The acts provided for in Article 163d and e shall take the form of motions.
5. The remaining acts of the Assembly of the Republic 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 their enactment.

## Article 167: Initiative in relation to legislation and referenda

- Legislative initiatives by citizens
- Initiation of general legislation

1. The power to initiate legislation and referenda shall lie with Members, parliamentary groups and the Government, and also, subject to the terms and conditions laid down by law, with groups of registered electors. The power to initiate legislation in relation to the autonomous regions shall lie with the respective Legislative Assembly.
2. No Member, parliamentary group, Legislative Assembly of an autonomous region or group of registered electors shall 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, parliamentary group or group of registered electors shall 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 Assembly of the Republic is elected.
5. Bills and draft referenda that are not put to the vote in the legislative session in which they are submitted shall not require resubmission in the following legislative sessions, unless the legislature itself comes to an end.
6. Government bills and draft referenda shall lapse upon the resignation or removal of the Government.
7. Government bills that are initiated by Legislative Assemblies of the autonomous regions shall lapse at the end of the respective legislature, save in the event that their general principles have already been passed, in which case they shall only lapse upon the end of the legislature of the Assembly of the Republic.
8. Without prejudice to the bills and draft referenda to which they refer, unless they are withdrawn, parliamentary committees may submit replacement texts therefore.

## Article 168: Discussion and voting

1. The discussion of bills shall comprise a debate on the general principles and another on the details.
2. Voting shall comprise a vote on the general principles, another on the details and a final overall vote.
3. In the event that 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 164a 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, organisational laws shall require passage by an absolute majority of all the Members in full exercise of their office. The same majority shall be required for passage of the details of provisions concerning the regions' territorial borders, as provided for in Article 255.
6. Passage of the following shall require 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 governing the media regulatory body;
  - b. The rules governing the provisions of Article 118(2);

- Organic laws

- Supermajority required for legislation

- 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 bodies provided for in Article 239(3);
- e. The provisions that regulate the subject matter of Article 164o;
- f. Those provisions of the political and administrative statutes of the autonomous regions that set out the matters which are covered by the autonomous regions' power to legislate.

## Article 169: Parliamentary consideration of legislation

- Head of government decree power
- 1. Unless passed under the Government's exclusive responsibility to legislate, upon a motion made by ten Members within thirty days of their publication, excluding periods in which the Assembly of the Republic's proceedings are suspended, executive laws may be subjected to consideration by the Assembly of the Republic with a view to causing them to cease to be in force or amending them.
- Head of government decree power
- 2. Once a motion to consider an executive law issued under the terms of an authorisation to legislate has been made and if one or more amendments are proposed, 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 proposed amendments are rejected.
- Head of government decree power
- 3. Such suspensions shall expire after ten plenary sittings, if the Assembly has not pronounced itself by then.
- Head of government decree power
- 4. In the event that the executive law is 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*, whereupon the executive law in question shall not be republished during the same legislative session.
- 5. In the event that a motion to consider has been made and the Assembly has not pronounced on the result of such consideration, 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 sessions have passed, the consideration process shall be deemed to have lapsed.
- 6. Proceedings concerning the consideration of executive laws shall enjoy priority under the terms of the Rules of Procedure.

## Article 170: Emergency proceedings

- 1. Upon the initiative of any Member, or parliamentary group, or the Government, the Assembly of the Republic may declare any bill or draft resolution to be the object of emergency proceedings.
- 2. Upon the initiative of the Legislative Assembly of the autonomous region in question, the Assembly may also declare any regional government bill to be the object of emergency proceedings.

## Chapter III: Organisation and proceedings

### Article 171: Legislatures

1. Each legislature shall last for four legislative sessions.
2. In the event of the dissolution of the Assembly, the newly elected Assembly shall commence a new legislature, the duration of which shall be extended at the beginning by such time as is 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 Assembly of the Republic shall 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 during a state of siege or a state of emergency.
2. Failure to comply with the provisions of the previous paragraph shall render the dissolution decree nugatory.
3. Dissolution of the Assembly shall not prejudice the continuation of its Members' term of office, or the responsibilities of the Standing Committee, until the first sitting of the Assembly following the subsequent election.

### Article 173: Sitting following elections

1. The Assembly of the Republic shall sit by right on the third day following the calculation of the general results of its 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 said legislature reaches its term, on the first day of the following legislature.
2. In the event that such 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 shall last for one year commencing on 15 September.
2. Without prejudice to suspensions decided by a two-thirds majority of all Members present, the Assembly of the Republic's normal parliamentary term shall be 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 said Committee is unable to function and there is a dire emergency, on the initiative of more than half of all the Members, the Assembly may conduct proceedings 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 matters.
5. When the Assembly so decides under the same terms as those set out in (2) above, committees may conduct proceedings regardless of whether the Assembly's Plenary is in full session.

### Article 175: Internal responsibilities of the Assembly

The Assembly of the Republic shall be responsible for:

- a. Drawing up its Rules of Procedure, as laid down by this Constitution;

• Leader of first chamber

- b. Electing its President and the remaining members of the Bureau by absolute majority of all the members in full exercise of their office. The four Vice-Presidents shall be elected upon proposals from the four largest parliamentary groups;

• Standing committees

- c. Forming the Standing Committee and the remaining committees.

## Article 176: Order of business of plenary sittings

1. The President of the Assembly of the Republic shall set the order of business in accordance with the priority set out in the Rules of Procedure and without prejudice to the right of appeal to the Assembly's Plenary, or to the power provided to the President of the Republic under 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 shall possess the right to set the order of business of a certain number of sittings in accordance with criteria to be laid down by the Rules of Procedure, in which respect the position of minority parties and parties that are not represented in the Government shall 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 shall possess the right to attend the Assembly of the Republic's plenary sittings, at which they may be assisted or substituted by their Secretaries of State, and both shall possess the right to speak, all as laid down by the Rules of Procedure.
2. Sittings shall be scheduled at which members of the Government shall be present in order to respond to Members' questions and requests for clarification. Such sittings shall take place at the minimum intervals laid down by 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 shall appear before committees when asked to do so.

## Article 178: Committees

1. The Assembly of the Republic shall have such committees as may be provided for by 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 Assembly of the Republic.
3. Petitions addressed to the Assembly shall be considered by a committee or committees formed especially for the purpose, which may hear other committees with responsibility for the matter in question and in all cases may ask any citizen to testify.
4. Without prejudice to their formation in accordance with the normal provisions, and up to a limit of one per Member and per legislative session, parliamentary committees of inquiry shall obligatorily be formed when a motion is made to that effect by one fifth of all the Members in full exercise of their office.
5. Parliamentary committees of inquiry shall possess 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 each group's Members.
7. Representatives of the Legislative Assembly of the autonomous region in question may participate in committee meetings at which regional legislative proposals are discussed, as laid down by the Rules of Procedure.

## Article 179: Standing Committee

1. Outside periods in which the Assembly of the Republic is in full session, during periods in which it is dissolved, and in the remaining cases provided for by this Constitution, the Assembly of the Republic's Standing Committee shall be in session.
2. The Standing Committee shall be chaired by the President of the Assembly of the Republic and shall also be composed of the Vice-Presidents and of Members nominated by each of the parties, each in proportion to the number of seats it holds in the Assembly.
3. The Standing Committee shall be responsible for:
  - a. Scrutinising compliance with this Constitution and the laws and monitoring the activities of the Government and the Public Administration;
  - b. Exercising the Assembly's powers in relation to Members' mandates;
  - c. Taking steps to call the Assembly whenever necessary;
  - d. Preparing the opening of legislative sessions;
  - e. Consenting to the President of the Republic's absence from the country;
  - f. Authorising the President of the Republic to declare a state of siege or a state of emergency, to declare war or to make peace.
4. In the case provided for in subparagraph f) of the previous paragraph, the Standing Committee shall take steps to call the Assembly as soon as possible.

## Article 180: Parliamentary groups

1. The Members elected for each party or coalition of parties may form a parliamentary group.
2. Each parliamentary group shall possess the following rights:
  - a. To take part in Assembly committees in proportion to the number of its Members, and to appoint its representatives on such 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 emergency 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 convene the Plenary;
  - 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 as to the situation and progress of the main matters of public interest.
3. Each parliamentary group shall possess 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 who do not belong to any parliamentary group shall be ensured certain minimum rights and guarantees, as laid down by 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 on assignment or under temporary contracts. The number of such staff and specialists shall be the that which the President considers necessary.

## **Title IV: Government**

### **Chapter I: Function and structure**

#### **Article 182: Definition**

The Government shall be the body that conducts the country's general policy and the supreme authority in the Public Administration.

#### **Article 183: Composition**

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

• Name/structure of executive(s)



## Article 184: Council of Ministers

1. The Council of Ministers shall be composed of the Prime Minister, the Deputy Prime Ministers if any, and the Ministers.
2. The law may create specialised Councils of Ministers with responsibility for specific matters.
3. Secretaries and Under Secretaries of State may be required to attend meetings of the Council of Ministers.

## Article 185: Temporary substitution of members of the Government

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

## Article 186: Taking and leaving office

1. The Prime Minister shall take office upon his installation and shall leave office when he is discharged by the President of the Republic.
2. The remaining members of the Government shall take office upon their installation and shall leave office when they or the Prime Minister are discharged.
3. Secretaries and Under Secretaries of State shall also leave office when their Minister is discharged.
4. In the event that the Government resigns or is removed, the Prime Minister of the outgoing Government shall be discharged on the date of the appointment and installation of the new Prime Minister.
5. Until its Programme has been considered by the Assembly of the Republic, and after its resignation or removal, the Government shall limit itself to undertaking such acts as are strictly necessary in order to ensure the management of public affairs.

## Chapter II: Formation and responsibilities

### Article 187: Formation

1. The President of the Republic shall appoint the Prime Minister after consulting the parties with seats in Assembly of the Republic and in the light of the electoral results.
2. The President of the Republic shall appoint 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 governance.

## Article 189: Collective responsibility

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

## Article 190: Government responsibility

The Government shall be responsible to the President of the Republic and the Assembly of the Republic.

## Article 191: Responsibility of members of the Government

1. The Prime Minister shall be responsible to the President of the Republic and, within the ambit of the Government's political responsibility, to the Assembly of the Republic.
2. Deputy Prime Ministers and Ministers shall be responsible to the Prime Minister and, within the ambit of the Government's political responsibility, to the Assembly of the Republic.
3. Secretaries and Under Secretaries of State shall be responsible to the Prime Minister and their Minister.

## Article 192: Consideration of the Government's Programme

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

## Article 193: Request for confidence motion

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

## Article 194: No confidence motions

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

• Head of government removal

## Article 195: Resignation or removal of the Government

1. The Government shall resign upon:
  - 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 no confidence motion by an absolute majority of all the Members 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 functioning of the democratic institutions and after first consulting the Council of State.

• Head of government immunity

## Article 196: Lifting immunity from criminal prosecution from members of the Government

1. No member of the Government shall be detained, arrested or imprisoned without the authorisation of the Assembly of the Republic, save for a serious 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 Assembly of the Republic shall decide whether or not the member of the Government shall 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 Assembly shall obligatorily suspend him.

## Chapter III: Responsibilities

### Article 197: Political responsibilities

1. In the exercise of its political functions the Government shall be responsible for:
  - a. In accordance with Article 140, counter-signing acts of the President of the Republic;
  - b. Negotiating and finalising international agreements;
  - c. Passing international agreements that do not require passage by, or have not been submitted to, the Assembly of the Republic;

- d. Presenting and submitting government bills and draft resolutions to the Assembly of the Republic;
  - e. In accordance with Article 115, proposing to the President of the Republic that important matters of national interest be subjected to referendum;
  - f. Giving its opinion on declarations of a state of siege or a state of emergency;
  - g. Proposing to the President of the Republic that he declare war or make peace;
  - h. In accordance with Article 162d, submitting the accounts of the state and of such other public bodies as the law shall lay down, to the Assembly of the Republic;
  - i. For the purpose of Articles 161n and 163f and in good time, submitting information concerning the process of constructing the European Union to the Assembly of the Republic;
  - j. Undertaking such other acts as may be required of it by this Constitution or by law.
2. The Government shall pass international agreements by decree.

• Regional group(s)

## Article 198: Legislative responsibilities

1. In the exercise of its legislative functions the Government shall be responsible for:
- a. Making executive laws on matters that are not the exclusive responsibility of the Assembly of the Republic;
  - b. Subject to authorisation by the Assembly of the Republic, making executive laws on matters that are the partially exclusive responsibility of the Assembly;
  - c. Making executive laws that develop the principles or the basic general elements of the legal rules contained in laws that limit themselves to the said principles or basic general elements.
2. The Government shall possess exclusive responsibility to legislate on matters that concern its own organisation and proceedings.
3. The executive laws provided for in (1)b and c above shall make express mention of the law granting authorisation to legislate, or the basic law, under which they are passed.

• Head of government decree power

## Article 199: Administrative responsibilities

In the exercise of its administrative functions the Government shall be responsible for:

- a. Drawing up National Plans on the basis of the respective Major Options, and causing them to be implemented;
- b. Causing the State Budget to be executed;
- c. Making such regulations as are needed to ensure that laws are properly implemented;
- d. Directing the state's civil and military departments and services and all activities under its direct administration, superintending indirect administration, and exercising oversight over such indirect administration and over autonomous administration;
- e. Undertaking all such acts as the law may require in relation to staff and agents of the state and of other public bodies corporate;
- f. Defending the democratic rule of law;
- g. Undertaking all such acts and making all such dispositions as may be needed to promote economic and social development and fulfil collective needs.

## Article 200: Responsibilities of the Council of Ministers

1. The Council of Ministers shall be responsible for:
  - a. Defining the outlines of government policy and of the implementation thereof;
  - b. Deciding whether to ask the Assembly of the Republic to pass confidence motions;
  - c. Passing government bills and draft resolutions;
  - d. Passing executive laws, and passing international agreements that are not to be submitted to the Assembly of the Republic;
  - e. Passing National Plans;
  - f. Passing Government acts that involve increases or reductions in public revenues or expenditure;
  - g. Deciding on such other matters that fall under the Government's responsibility as may be entrusted to it by law or submitted to it by the Prime Minister or any Minister.

2. Specialised Councils of Ministers shall fulfil such responsibilities as may be required of them by law or delegated to them by the Council of Ministers.

## **Article 201: Responsibilities of members of the Government**

1. The Prime Minister shall be responsible for:
  - a. Directing the Government's general policy and coordinating and orienting the actions of all the Ministers;
  - b. Directing the work of the Government and its general relations with other state bodies;
  - c. Informing the President of the Republic about matters concerning the conduct of the country's internal and external policy;
  - d. Performing such other functions as may be required of him by this Constitution and the law
2. Ministers shall be responsible for:
  - a. Implementing the policy that has been set for their Ministries;
  - b. Within the scope of their individual Ministries, ensuring general relations between the Government and other state bodies.
3. The Prime Minister and the Ministers with responsibility for the matter in question shall sign executive laws and decrees issued by the Government.

## **Title V: Courts**

### **Chapter I: General principles**

#### **Article 202: Jurisdiction**

1. The courts shall be the bodies that exercise sovereign power which possess the responsibility to administer justice in the name of the people.
2. In administering justice the courts shall ensure the defence of those citizens' rights and interests that are protected by law, repress breaches of the democratic rule of law and rule on conflicts between interests, public and private.
3. In the performance of their functions the courts shall possess the right to the assistance of the other authorities.
4. The law may institutionalise non-judicial instruments and means of settling conflicts.

#### **Article 203: Independence**

The courts shall be independent and subject only to the law.

• Judicial independence

## Article 204: Compliance with the Constitution

In matters that are brought to trial, the courts shall not apply rules that contravene the provisions of this Constitution or the principles enshrined therein.

## Article 205: Court rulings

1. Court rulings that are not merely administrative in nature shall set out their grounds in the form laid down by law.
2. Court rulings shall be binding on all persons and bodies, public and private, and shall prevail over the decisions of all other authorities.
3. The law shall regulate the terms under which court rulings are implemented in relation to any authority, and shall lay down the penalties to be imposed on any person or body that is responsible for any failure to implement such rulings.

## Article 206: Court hearings

Court hearings shall be public, save in the event that in order to safeguard personal dignity or public morals, or to ensure its own proper operation, the court in question rules otherwise in a written order setting out the grounds for its decision.

## Article 207: Juries, public participation and experts

1. In such cases and with such composition as the law may lay down, and particularly when either the prosecution or the defence so request, a jury may 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 trials 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 assistants 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 Audit Court.
- 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 can separately or jointly be constituted as conflict-resolution tribunals.
- 4. Without prejudice to the provisions concerning courts martial, courts with the exclusive power to try certain categories of crime shall be prohibited.

## Article 210: Supreme Court of Justice and other courts of law

- 1. Without prejudice to the specific responsibilities of the Constitutional Court, the Supreme Court of Justice shall be the senior body in the hierarchy of courts of law.
- 2. The judges of the Supreme Court of Justice shall elect its President.
- 3. As a general rule the courts of first instance shall be the district courts, the status of which shall be equivalent to that of those referred to in paragraph (2) of the following Article.
- 4. As a general rule the courts of second instance shall be the Courts of Appeal.
- 5. The Supreme Court of Justice shall serve as a court of instance in such cases as the law may lay down.

## Article 211: Responsibilities and specialisation of courts of law

- 1. The courts of law shall be the general courts in civil and criminal matters and shall have jurisdiction over every area that is not allocated to other judicial bodies.
- 2. There may be courts of first instance that possess specific responsibilities 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 responsibilities of the Constitutional Court, the Supreme Administrative Court shall be the senior body in the hierarchy of administrative and tax courts.
- 2. The judges of the Supreme Administrative Court shall elect its President from among their number.
- 3. The administrative and tax courts shall try contested suits and appeals, the purpose of which is to settle disputes arising from administrative and fiscal legal relations.

## Article 213: Courts martial

During states of war, courts martial with jurisdiction over crimes of a strictly military nature shall be formed.



## Article 214: Audit Court

1. The Audit Court shall be the senior body with authority to scrutinise the legality of public expenditure and judge such accounts as the law may require to be submitted to it. It shall particularly be responsible for:
  - a. Issuing an opinion on the General State Accounts, including the social security accounts;
  - b. Issuing an opinion on the accounts of the Azores and Madeira Autonomous Regions;
  - c. Enforcing liability for financial infractions, as laid down by law;
  - d. Fulfilling such other responsibilities as the law may confer upon it.
2. Without prejudice to the provisions of Article 133m, the President of the Audit Court's term of office shall be four years.
3. The Audit Court 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 Audit Court with full responsibility for the matter in question in the respective region, as laid down by law.

## Chapter III: Status of judges

### Article 215: Judges of the courts of law

1. The judges of the courts of law shall form a single body and shall be governed by a single statute.
2. The law shall lay down the requirements and rules governing the recruitment of judges of the courts of law of first instance.
3. The prevailing criterion in the selection of judges of the courts of law of second instance shall be that of merit, to be determined by a competitive submission of curricula by judges of first instance.
4. Appointment to the Supreme Court of Justice shall be determined by a competitive submission of curricula by judges, public prosecutors and other meritorious members of the legal profession, as laid down by law.

### Article 216: Guarantees and incompatibilities

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

• Eligibility for ordinary court judges

• Eligibility for supreme court judges  
• Supreme court selection

• Supreme/ordinary court judge removal

• Eligibility for ordinary court judges

• Eligibility for ordinary court judges

## Article 217: Appointment, assignment, transfer and promotion of judges

1. The appointment, assignment, transfer and promotion of judges of the courts of law and the exercise of discipline over them shall be the responsibility of the Supreme Judicial Council, as laid down by law.
2. The appointment, assignment, transfer and promotion of judges of the administrative and tax courts and the exercise of discipline over them shall be the responsibility of the respective Supreme Council, as laid down by law.
3. Subject to the guarantees provided for by this Constitution, 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 determine the responsibility to do so.

## Article 218: Supreme Judicial Council

1. The Supreme Judicial Council shall be chaired by the President of the Supreme Court of Justice and shall also be composed of the following members:
  - a. Two to be appointed by the President of the Republic;
  - b. Seven to be elected by the Assembly of the Republic;
  - c. Seven judges to be elected by their peers in accordance with the principle of proportional representation.
2. The rules governing guarantees enjoyed by judges shall apply to all the members of the Supreme Judicial Council.
3. The law may provide for court officials to be members of the Supreme Judicial Council, in which case they shall be elected thereto by their peers. Such members shall only participate in 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 Prosecutors' Office

### Article 219: Functions, status and role

1. The Public Prosecutors' Office shall be responsible for representing the state and defending such interests as the law may lay down, and, subject to the provisions of the following paragraph and as laid down by law, for participating in the implementation of the criminal policy defined by the bodies that exercise sovereign power, conducting penal action in accordance with the principle of legality, and defending the democratic rule of law.
2. The Public Prosecutors' Office shall possess its own statute and autonomy, as laid down by law.
3. The law shall create special forms of assistance to be provided to the Public Prosecutors' Office in cases involving strictly military crimes.
4. The officials of the Public Prosecutors' Office shall be accountable judicial officers, shall form part of and be subject to a hierarchy and shall not be transferred, suspended, retired or removed from office except in cases provided for by law.

5. The appointment, assignment, transfer and promotion of officials of the Public Prosecutors' Office and the exercise of discipline over them shall be the responsibility of the Attorney General's Office.

## Article 220: Attorney General's Office

1. The Attorney General's Office shall be the senior body of the Public Prosecutor's Office and shall possess the composition and responsibilities laid down by law.
2. The Attorney General's Office shall be presided over by the Attorney General and shall contain the Supreme Council of the Public Prosecutors' Office, which shall include members elected by the Assembly of the Republic and members whom the public prosecutors shall elect from among their number.
3. Without prejudice to the provisions of Article 133m, the Attorney General's term of office shall be six years.

## Title VI: Constitutional Court

### Article 221: Definition

The Constitutional Court shall be the court with specific responsibility for administering justice in matters of a legal and constitutional nature.

### Article 222: Composition and status of judges

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

### Article 223: Responsibilities

1. The Constitutional Court shall assess cases of unconstitutionality and illegality in accordance with Articles 277 et sequitur.
2. The Constitutional Court shall also be responsible for:
  - a. Verifying the death and declaring the permanent physical incapacity of the President of the Republic, and verifying cases in which he is temporarily prevented from performing his functions;
  - b. Verifying forfeiture of the office of President of the Republic in the cases provided for in Articles 129(3) and 130(3);

- c. Issuing rulings of final instance on the proper conduct and validity of electoral acts, as laid down by law;
  - d. For the purpose of Article 124(3), verifying the death and declaring the incapacity to exercise the office of President of the Republic of any candidate therefore;
  - e. Verifying the legality of the formation of political parties and coalitions thereof, assessing the legality of their names, initials and symbols, and ordering their abolition, all as laid down by this Constitution and the law;
  - f. Verifying in advance the constitutionality and legality of national, regional and local referenda, including assessment of requirements in relation to the electors in each case;
  - g. At the request of Members and as laid down by law, ruling on appeals concerning losses of seat and elections held by the Assembly of the Republic and the Legislative Assemblies of the autonomous regions;
  - h. Ruling on such cases involving the impugnation of elections within, and the decisions taken by, political parties as by law are subject to appeal.
3. The Constitutional Court shall also perform such other functions as are conferred upon it by this Constitution and the law.

## Article 224: Organisation and procedure

1. The law shall lay down the rules governing the Constitutional Court's seat, manner of organisation and procedures.
2. Except for the purpose of the abstract assessment of constitutionality and legality, the law may require the Constitutional Court to operate in sections.
3. The law shall regulate appeals to the full Constitutional Court against contradictory rulings by different sections on the application of the same rule or provision.

## Title VII: Autonomous Regions

### Article 225: Political and administrative system in the Azores and Madeira

1. The specific political and administrative system applicable in the Azores and Madeira archipelagos shall be based on their geographic, economic, social and cultural characteristics and on the island populations' historic aspirations to autonomy.
2. The autonomy of the regions is designed to ensure their citizens' democratic participation, 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 shall not affect the integrity of the sovereignty of the state and shall be exercised within the overall framework of this Constitution.

• Citizenship of indigenous groups

• Reference to fraternity/solidarity

## 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 shall be drawn up by the said Legislative Assemblies and sent to the Assembly of the Republic for discussion and passage or rejection.
2. If the Assembly of the Republic 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 Assembly of the Republic shall put the draft or bill to final discussion and the vote.
4. The system provided for in the previous paragraphs shall apply to amendments to the political and administrative statutes and the laws governing the election of members of the Legislative Assemblies of the autonomous regions.

## Article 227: Powers of the autonomous regions

1. The autonomous regions shall be territorial bodies corporate and shall possess the following powers, which shall be defined in their statutes:
  - a. To legislate within the ambit of the region on such matters as are set out in the political and administrative statute of the region in question and are not the exclusive responsibility of bodies that exercise sovereign power;
  - b. Subject to authorisation by the Assembly of the Republic, to legislate on matters that fall within that Assembly's partially exclusive responsibility to legislate, 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 basic general elements of the legal rules contained in laws that limit themselves to the said principles or basic general elements;
  - d. To regulate regional legislation and such laws issued by bodies that exercise sovereign power as do not reserve the power to regulate the laws themselves to the said bodies;
  - e. To initiate statutes and to initiate legislation 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 draft amendments thereto to the Assembly of the Republic;
  - g. To exercise their own executive power;
  - h. To administer and dispose of their assets and to undertake such acts and enter into such contracts as may be in their interest;

- Federal review of subnational legislation
- Citizenship of indigenous groups

- Right to culture
- Citizenship of indigenous groups
- Indigenous right to vote
- Indigenous right to self governance
- Subsidiary unit government

- i. To exercise their own power to tax as laid down by law, as well as to adapt the national fiscal system to the specificities of the region under the terms of framework laws passed by the Assembly of the Republic;
- j. In accordance with their statutes and the law governing the finances of the autonomous regions, to dispose of such tax revenues as may be collected or generated in the autonomous region in question, as well as of a part of the state's tax revenues, to be determined in accordance with a principle that ensures effective national solidarity, and of such other revenue as may be allocated to them, and to appropriate such revenues to their expenditure;
- l. To create and abolish local authorities and modify the area thereof, 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 and nationalised companies that work or trade exclusively or predominantly in the region and in such other cases as are justified in the regional interest;
- 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 National Plans;
- q. Without prejudice to the provisions of Article 165(1)d, to define administrative offences and the penalties therefore;
- r. To participate in the definition and implementation of fiscal, monetary, financial and exchange policy 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 seabed;
- 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 cooperate with foreign regional bodies and to participate in organisations the purpose of which is to foster inter-regional dialogue and cooperation, all in accordance with the guidelines set out by the bodies that exercise sovereign power and are responsible for foreign affairs;
- v. On their own initiative, or when consulted by bodies that exercise sovereign power, to give their opinion on issues that fall under the latter's responsibility and concern the autonomous regions, and 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;

• Reference to fraternity/solidarity

• Regional group(s)

• Regional group(s)

- 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 European regional institutions and on delegations involved in European Union decision-making processes, as well as to transpose Union legislation and other legal acts in accordance with Article 112.
2. Regional government bills seeking authorisation to legislate shall 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 shall lapse upon the end of the legislature or the dissolution of either the Assembly of the Republic, or the Legislative Assembly to which they were granted.
4. The regional legislative decrees provided for in (1)b and c above shall make express mention of the respective laws granting authorisation to legislate or the respective basic laws. The provisions of Article 169 shall apply to the former, *mutatis mutandis*.

• Indigenous right to self governance

### **Article 228: Legislative autonomy**

1. The autonomous regions' legislative autonomy shall apply to such matters set out in the respective political and administrative statute as are not the exclusive responsibility of bodies that exercise sovereign power.
2. In the absence of specific regional legislation on a matter that is not the exclusive responsibility of bodies that exercise sovereign power, the current provisions of the law shall apply to the autonomous regions.

• Indigenous right to self governance

### **Article 229: Cooperation between bodies that exercise sovereign power and regional bodies**

1. In cooperation with the self-government bodies, the bodies that exercise sovereign power shall ensure the autonomous regions' economic and social development, with a particular view to the correction of inequalities derived from the autonomous regions' insular nature.
2. Bodies that exercise sovereign power shall always consult the regional self-government bodies in relation to such issues as fall within their own responsibilities 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 164t.
4. The Government of the Republic and the Regional Governments may agree other forms of cooperation, particularly those involving acts entailing the delegation of responsibilities. The corresponding transfer of financial resources and the applicable financial scrutiny mechanisms shall be determined in each such case.

• Subsidiary unit government

### **Article 230: Representatives of the Republic**

• Citizenship of indigenous groups

• Subsidiary unit government

1. For each of the autonomous regions there shall be a Representative of the Republic, whom the President of the Republic shall appoint and discharge from office after first consulting the Government.
2. Unless he is discharged from office, the Representative of the Republic's term of office shall last for as long as that of the President of the Republic and shall end upon installation of a new Representative of the Republic.

3. In the event that the office falls vacant and in cases in which the Representative of the Republic is absent or prevented from performing his functions, he shall temporarily be substituted by the President of the Legislative Assembly.

### **Article 231: Self-government bodies of the autonomous regions**

1. Each autonomous region shall have self-government bodies in the form of a Legislative Assembly and a Regional Government.
2. Legislative Assemblies shall be elected by universal, direct and secret suffrage in accordance with the principle of proportional representation.
3. Each Regional Government shall be politically responsible to the Legislative Assembly of its autonomous region, and the Representative of the Republic shall appoint its president in the light of the results of the regional elections.
4. The Representative of the Republic shall appoint and discharge the remaining members of the Regional Government upon the proposal of its president.
5. Each Regional Government shall take office before the Legislative Assembly of its autonomous region.
6. Each Regional Government shall possess exclusive responsibility for matters that concern its own organisation and proceedings.
7. The status and role of the officeholders of the self-government bodies of the autonomous regions shall be defined in the latter's political and administrative statutes.

### **Article 232: Responsibilities of Legislative Assemblies of autonomous regions**

1. The Legislative Assembly of each autonomous region shall possess exclusive responsibility for the exercise of 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 l 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 each autonomous region shall be responsible for submitting draft regional referenda by means of which the President of the Republic may call upon the citizens who are registered to vote in the region's territory to pronounce in binding fashion on questions that are of important specific interest to the region. The provisions of Article 115 shall apply to such referenda, mutatis mutandis.
3. The Legislative Assembly of each autonomous region shall draft and pass its rules of procedure in accordance with this Constitution and its political and administrative statute.
4. The provisions of Articles 175c, 178(1) to (6), 179 except for (3)e and f and (4), and 180 shall apply, mutatis mutandis, to the Legislative Assemblies of the autonomous regions and their parliamentary groups.

### **Article 233: Signature and veto of Representatives of the Republic**

1. The Representative of the Republic shall be responsible for signing regional legislative decrees and regional regulatory decree and having them published.



2. Within fifteen days of reception of any decree of the Legislative Assembly of the autonomous region that is sent to him for signature, or of the publication of a Constitutional Court ruling that fails to declare any of its provisions unconstitutional, the Representative of the Republic shall either sign the decree, or exercise the right of veto. In the latter case, by means of a message setting out the grounds therefore, he shall request that the decree be reconsidered.
3. If the Legislative Assembly of the autonomous region confirms its original vote by an absolute majority of all its members in full exercise of their office, the Representative of the Republic shall sign the decree within eight days of receiving it.
4. Within twenty days of receipt of any decree of the Regional Government that is sent to him for signature, the Representative of the Republic shall either sign or refuse to sign it. In the event of refusal, he shall inform the Regional Government in writing of the reasons for the veto, 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 to veto pursuant to Articles 278 and 279.

## **Article 234: Dissolution and removal of self-government bodies**

1. After first consulting the Council of State and the parties with seats in the Legislative Assembly in question, the President of the Republic may dissolve the Legislative Assembly of an autonomous region.
2. Dissolution of a Legislative Assembly of an autonomous region shall cause the removal of the Regional Government, whereupon and until such time as a new Regional Government takes office following elections, the Regional Government shall be limited to undertaking such acts as are strictly necessary in order to ensure the management of public affairs.
3. Dissolution of a Legislative Assembly of an autonomous region shall not prejudice the continuation of its members' term of office, or the responsibilities of its 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 shall include local authorities.
2. Local authorities shall be territorial bodies corporate, shall possess representative bodies and shall seek to pursue the interests of the local people.

#### **Article 236: Categories of local authority and administrative division**

1. On the mainland, local authorities shall comprise parishes, municipalities and administrative regions.
2. The Azores and Madeira autonomous regions shall comprise parishes and municipalities.

3. In large urban areas and on the islands the law may create other forms of local government organisation in accordance with the specific conditions prevailing therein or on.
4. The law shall lay down the manner in which Portuguese territory is to be divided for administrative purposes.

### **Article 237: Administrative decentralisation**

1. The law shall regulate the responsibilities and organisation of local authorities and the responsibilities of their bodies in accordance with the principle of administrative decentralisation.
2. Each local authority assembly shall be responsible for exercising the powers conferred upon 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 possess their own assets and finances.
2. The law shall lay down the rules governing local finances and shall seek to ensure that public resources are justly shared between the state and the local authorities, and the necessary correction in inequalities between local authorities of the same category.
3. Each local authority's income shall obligatorily include that derived from the management of its assets and that charged for the use of its services.
4. Local authorities may possess the power of taxation in such cases and under such terms as may be laid down by law.

• Municipal government

### **Article 239: Decision-making and executive bodies**

1. The organisational structures of local authorities shall comprise an elected assembly with decision-making powers, and a collegiate executive body that shall be answerable to the assembly.
2. Assemblies shall be elected by universal, direct and secret suffrage of the citizens who are registered to vote in the area of the local authority in question, in accordance with the proportional representation system.
3. The collegiate executive body shall be composed of an adequate number of members. The first candidate on the list that receives the most votes cast shall be appointed president of the assembly or executive, depending on and in accordance with the solution adopted by law. The law shall also regulate the electoral process, the requirements governing the formation and removal of the assembly and the collegiate executive body, and their proceedings and operation.
4. Nominations for election to local authority bodies may be submitted by political parties, either individually or in coalition, or by groups of registered electors, all as laid down by law.

• Municipal government

• Municipal government

### **Article 240: Local referenda**

1. In such cases, under such terms and with such effect as the law may lay down, local authorities may submit matters that are included within the responsibilities of the local authority bodies to referendum by those of their citizens who are registered to vote.
2. The law may grant the right to initiate referenda to registered electors.

• Referenda

## Article 241: Regulatory power

Within the limits laid down by this Constitution and the laws and regulations issued by a higher category of local authority, or by an authority with oversight over the local authority in question, local authorities shall possess their own regulatory power.

## Article 242: Administrative oversight

1. Administrative oversight of local authorities shall consist of the verification of the local authority bodies' compliance with the law and shall be exercised in such cases and in accordance with such forms as the law may lay down.
2. Oversight measures that restrict local autonomy shall be preceded by an opinion from a local authority body and shall be governed by law.
3. Local authority bodies may only be dissolved for serious illegal acts or omissions.

## Article 243: Local authority staff

1. Local authorities shall possess their own staff, as laid down by law.
2. The rules governing state staff and agents shall apply to local government staff and agents, as laid down by law, *mutatis mutandis*.
3. Without prejudice to the autonomy of the local authorities, the law shall define the forms in which the state shall provide such authorities with support in the form of technical and human resources.

## Chapter II: Parishes

### Article 244: Parish bodies

A parish's representative bodies shall be the parish assembly and the parish authority.

### Article 245: Parish assemblies

1. The parish assembly shall be its parish's decision-making body.
2. The law may require that the parish assembly in parishes with very small populations be replaced by the plenary meeting of registered electors.

### Article 246: Parish authorities

The parish authority shall be its parish's collegiate executive body.

### Article 247: Associations

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

### Article 248: Delegation of tasks

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

## Chapter III: Municipalities

### Article 249: Changes to municipalities

Municipalities shall be created and abolished and their area shall be altered by means of laws, following prior consultation of the bodies of the local authorities in question.

### Article 250: Municipal bodies

A municipality's representative bodies shall be the municipal assembly and the municipal authority.

### Article 251: Municipal assemblies

The municipal assembly shall be its municipality's decision-making body and shall be composed of directly elected members and the presidents of the municipality's parish authorities. The number of directly elected members shall be greater than that of the presidents of the parish authorities.

### Article 252: Municipal authorities

The municipal authority shall be its municipality's collegiate executive body.

### Article 253: Associations and federations

In order to administer common interests, municipalities may form associations and federations, on which the law may confer specific powers and responsibilities.

### 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 possess 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, responsibilities and proceedings of their bodies and may lay down differences between the rules applicable to each administrative region.

### Article 256: De facto institution

1. The de facto institution of the administrative regions by means of the individual laws instituting each one shall depend on the law provided for in the previous Article, and on the casting of 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 the majority of the registered electors who cast their votes do not respond in the affirmative to a question with a national scope on the de facto institution of the administrative regions, the answers to such questions as may be put in relation to each region that is created by the law shall not take effect.
3. The consultation of registered electors provided for in the previous paragraphs shall take place in accordance with the provisions of an organisational law and by decision of the President of the Republic, upon a proposal from the Assembly of the Republic. The system derived from Article 115 shall apply *mutatis mutandis*.

## **Article 257: Responsibilities**

Administrative regions shall particularly be 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, while respecting the municipalities' autonomy and without imposing limits on their powers.

## **Article 258: Planning**

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

## **Article 259: Regional bodies**

The regional assembly and the regional authority shall be an administrative region's representative bodies.

## **Article 260: Regional assemblies**

The regional assembly shall be its region's decision-making body. It shall be composed of directly elected members, and by a smaller number of members who shall be elected in accordance with the proportional representation system and using 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 authorities**

The regional authority shall be its region's collegiate executive body.

## **Article 262: Government representatives**

The Council of Ministers may appoint a Government representative to each region. The responsibilities of such representatives shall also extend to the local authorities in their area.

## **Chapter V: Residents' organisations**

### **Article 263: Formation and area**

1. In order to intensify local people's participation in local administrative life, residents' organisations may be formed within areas smaller than that of their parish.

2. Upon its own initiative, or at the request of one or more residents' committees or a significant number of residents, the local parish authority shall delimit the geographic area of the organisations referred to in the previous paragraph and shall resolve any conflicts that arise from such delimitation.

## **Article 264: Structure**

1. The law shall lay down the structure of residents' organisations, which shall include a residents' assembly and a residents' committee.
2. Residents' assemblies shall be composed of the residents registered during the parish census.
3. Each residents' assembly shall elect a residents' committee, which it shall also be free to dismiss.

## **Article 265: Rights and responsibilities**

1. Residents' organisations shall possess 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 shall be responsible for performing such tasks as the law or their parish bodies may delegate to them.

## **Title IX: Public Administration**

### **Article 266: Fundamental principles**

1. The Public Administration shall seek to pursue the public interest and shall respect all such citizens' rights and interests as are protected by law.
2. Administrative bodies and agents shall be subject to this Constitution, and in the performance of their functions shall 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 Public Administration's work and the management, superintendence and oversight of the competent bodies, the law shall lay down adequate forms of administrative decentralisation and devolution.
3. The law may create independent administrative bodies.
4. Public associations may only be formed in order to fulfil specific needs, may not perform 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 bodies.

5. The processing of administrative activities shall be the object of a special law, which shall ensure that the resources to be used by departments and services are rationalised, and that citizens participate in the taking of decisions that concern them.
6. Private bodies that exercise public powers may be subject to administrative inspection as laid down by law.

## Article 268: Citizens' rights and guarantees

1. Citizens shall possess the right to be informed by the Administration whenever they so request as to the progress of the processes in which they are directly interested, as well as to be made aware of such decisions as are taken in relation to them.
2. Without prejudice to the law governing matters of internal and external security, criminal investigation and personal privacy, citizens shall also possess the right of access to administrative files and records.
3. Administrative acts shall be subject to notification to the interested parties in the form laid down by law, and when they affect rights or interests that are protected by law, shall be based on express grounds that can be accessed by the parties.
4. Citizens shall be guaranteed effective judicial 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 rulings requiring the practise of administrative acts that are due by law, and the issue of adequate injunctions.
5. Citizens shall also possess the right to challenge administrative rules which possess external force and which harm any of their rights or interests that are protected by law.
6. For the purposes of (1) and (2) above the law shall lay down a maximum time limit for responses by the Administration.

## Article 269: Rules governing Public Administration staff

1. In the performance of their functions, Public Administration workers and other agents of the state and of other public bodies shall exclusively serve the public interest, as defined in accordance with the law by the Administration's competent governing bodies.
2. Public Administration workers and other agents of the state and of other public bodies shall not be prejudiced or benefited as a result of their exercise of any political rights provided for in this Constitution, particularly party political preferences.
3. Persons who are the object of disciplinary proceedings shall be guaranteed the right to be heard and to a defence.
4. Public positions and offices shall not be accumulated, save in such cases as are expressly permitted by law.
5. The law shall lay down the incompatibilities between the holding of public positions or offices and other activities.

• Right to information

• Ultra-vires administrative actions

• Ultra-vires administrative actions

## Article 270: Restrictions on the exercise of rights

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

## Article 271: Liability of state staff and agents

1. The staff and agents of the state and of other public bodies shall be civilly and criminally liable and subject to disciplinary proceedings for their actions and omissions in the performance of their functions, and for any such performance that leads to a breach of those citizens' rights and interests that are protected by law. At no stage shall any suit or proceedings in this respect be dependent on authorisation by higher authority.
2. Liability shall not accrue to any member of staff or agent who acts in the performance of his duties in compliance with orders or instructions issued by a legitimate hierarchical superior, on condition that he previously protested against the said orders or instructions or required them to be transmitted or confirmed in writing.
3. The duty of obedience shall cease 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 shall be entitled to indemnification by their bodies, staff and agents.

## Article 272: Police

1. The functions of police forces shall be to defend the democratic rule of law and to guarantee citizens' internal security and rights.
2. The measures to be used for policing purposes shall be those laid down by law and shall not be used more than is strictly necessary.
3. Crime prevention, including that of crimes against state security, shall 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 rules governing police forces and each such force shall possess a sole organisational structure for the whole of Portuguese territory.

## Title X: National defence

### Article 273: National defence

1. The state shall be under an obligation to ensure the defence of the nation.
2. The objectives of national defence shall be 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 agreements.



• Advisory bodies to the head of state

## Article 274: Supreme National Defence Council

1. The Supreme National Defence Council shall be chaired by the President of the Republic and shall be composed as laid down by law. The said composition shall include members elected by the Assembly of the Republic.
2. The Supreme National Defence Council shall be the specific consultative body for matters concerning national defence and the organisation, operation and discipline of the Armed Forces. It may possess such administrative responsibilities as the law may confer upon it.

## Article 275: Armed Forces

1. The Armed Forces shall be charged with ensuring the military defence of the Republic.
2. The Armed Forces shall be composed exclusively of Portuguese citizens and shall possess a single organisational structure for the whole of Portuguese territory.
3. The Armed Forces shall obey the competent bodies that exercise sovereign power, as laid down by this Constitution and the law.
4. The Armed Forces shall serve the Portuguese people and shall be rigorously nonpartisan. Their personnel shall not take advantage of their weapons, their positions or their functions to intervene in political matters in any way.
5. As laid down by law, the Armed Forces shall be charged with fulfilling the Portuguese state's commitments in the military field and taking part in humanitarian and peace missions undertaken by international organisations to which Portugal belongs.
6. As laid down by law, the Armed Forces may be charged with cooperating in civil protection missions, tasks concerning the satisfaction of basic needs and the improvement of people's quality of life, and technical and military actions under the aegis of the national cooperation policy.
7. The laws that regulate the state of siege and the state of emergency shall lay down the terms governing the use of the Armed Forces in such situations.

• Restrictions on the armed forces

## Article 276: Defence of the nation, military service and civic service

1. Every Portuguese person shall possess the fundamental right and duty to defend the nation.
2. The law shall regulate military service and 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 such unarmed military service or civic service as may be appropriate to their situation.
4. Conscientious objectors who by law are subject to the performance of military service shall perform civic service with the same duration and degree of arduousness as armed military service.
5. Civic service may be laid down as a replacement for or complement to military service and the law may make it compulsory for citizens who are not subject to military duties.
6. No citizen who fails or ceases to perform compulsory military or civic service duties shall retain or secure employment with the state or any other public body.
7. No citizen shall be prejudiced in relation to any assignment, social benefits or permanent employment as the result of his performance of military service or compulsory civic service.

• Right to conscientious objection

# Part IV: Guaranteeing and revision of the Constitution

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## Title I: Review of constitutionality

### Article 277: Positive unconstitutionality

1. Rules that contravene any of the provisions of this Constitution or the principles enshrined therein shall be unconstitutional.
2. On condition that the rules laid down by properly ratified international treaties are applied in the legal system of the other party thereto, the unconstitutionality in form or substance of such rules shall not prevent their application in the Portuguese legal system, save if such unconstitutionality results from the breach of a fundamental provision of this Constitution.

### Article 278: Prior review of constitutionality

1. The President of the Republic may ask the Constitutional Court to conduct a prior review of the constitutionality of any rule laid down by an international treaty that is submitted to him for ratification, by any decree that is sent to him for enactment as a law or executive law, or by any international agreement, the decree passing which is sent to him for signature.
2. Representatives of the Republic may also ask the Constitutional Court to conduct a prior review of the constitutionality of any rule laid down by a regional legislative decree that is sent to them for signature.
3. Prior reviews of constitutionality shall be requested within eight days of reception of the document in question.
4. In addition to the President of the Republic himself, the Prime Minister or one fifth of all the Members of the Assembly of the Republic in full exercise of their office may ask the Constitutional Court to conduct a prior review of the constitutionality of any rule laid down by any decree that is sent to the President of the Republic for enactment as an organisational law.
5. On the date on which he sends any decree to the President of the Republic for enactment as an organisational law, the President of the Assembly of the Republic shall notify the Prime Minister and the parliamentary groups in the Assembly of the Republic thereof.
6. The prior review of constitutionality provided for in (4) above shall be requested within eight days of the date provided for in (5) above.
7. Without prejudice to the provisions of (1) above, the President of the Republic shall not enact the decrees referred to in (4) above until eight days have passed after their receipt, or, in the event that the Constitutional Court is asked to intervene, until it has pronounced thereon.
8. The Constitutional Court shall pronounce within a period of twenty-five days, which the President of the Republic may reduce in the case of (1) above for reasons of emergency.

• Legal status of treaties

• Constitutionality of legislation

## Article 279: Effects of ruling

1. If the Constitutional Court pronounces the unconstitutionality of any rule contained in a decree or international treaty, the President of the Republic or the Representative of the Republic, as appropriate, shall veto the statute or treaty and return it to the body that passed it.
2. In the case provided for in (1) above, such a decree shall not be enacted or signed unless the body that passed it expunges the rule that has been deemed unconstitutional, or, where applicable, the said rule is confirmed 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.
3. If the statute or treaty 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 rules in the new version.
4. If the Constitutional Court pronounces the unconstitutionality of any rule contained in a treaty, the said treaty shall only be ratified if the Assembly of the Republic passes 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: Specific review of constitutionality and legality

1. Appeal may be made to the Constitutional Court against court rulings:
  - a. That refuse the application of any rule on the grounds of its unconstitutionality;
  - b. That apply any rule, the unconstitutionality of which has been raised during the proceedings in question.
2. Appeal may also be made to the Constitutional Court against court rulings:
  - a. That refuse the application of any rule contained in legislation on the grounds that it is illegal because it breaches a law which possesses superior force;
  - b. That refuse the application of any rule contained in a regional decree on the grounds that it is illegal because it breaches the autonomous region's statute;
  - c. That refuse the application of any rule contained in a decree issued by a body that exercises sovereign power, on the grounds that it is illegal because it breaches an autonomous region's statute;
  - d. That apply any rule, the illegality of which on any of the grounds referred to in subparagraphs a, b and c above has been raised during the proceedings.
3. In the event that the rule, the application of which has been refused, is contained in an international agreement, legislation or a regulatory order, the Public Prosecutors' Office shall obligatorily appeal as provided for in (1)a or 2(a) above.
4. The appeals provided for in (1)b and 2(d) above shall only be brought by the party that raised the question of unconstitutionality or illegality. The law shall regulate the rules governing the admission of such appeals.

5. Appeal may also be made to the Constitutional Court, and the Public Prosecutors' Office shall obligatorily bring such an appeal, against court rulings that apply rules which the Constitutional Court had previously deemed unconstitutional or illegal.
6. Appeals to the Constitutional Court shall be restricted to the question of unconstitutionality or illegality, as appropriate.

## **Article 281: Abstract review of constitutionality and legality**

1. The Constitutional Court shall review, and shall declare with generally binding force:
  - a. The unconstitutionality or otherwise of any rule;
  - b. The illegality of any rule or rules contained in legislation, on the grounds of the breach of any law with superior force;
  - c. The illegality of any rule or rules contained in a regional decree, on the grounds of the breach of the autonomous region's statute;
  - d. The illegality of any rule or rules contained in a statute or decree issued by a body that exercises sovereign power, on the grounds of a breach of one or more 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 Assembly of the Republic;
  - c. The Prime Minister;
  - d. The Ombudsman;
  - e. The Attorney General;
  - f. One tenth of the Members of the Assembly of the Republic;
  - g. In the event that the request for a declaration of unconstitutionality is based on the breach of the rights of autonomous regions, or the request for a declaration of illegality is based on the breach of their statutes, Representatives of the Republic, Legislative Assemblies of the autonomous regions, presidents of the 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 shall also review, and with generally binding force shall declare, the unconstitutionality or illegality of any rule that the Constitutional Court has already deemed unconstitutional or illegal in three specific cases.

• Constitutionality of legislation

• Ombudsman

• Constitutionality of legislation

## Article 282: Effects of declaration of unconstitutionality or illegality

1. A declaration of unconstitutionality or illegality with generally binding force shall take effect as of the moment at which the rule declared unconstitutional or illegal came into force, and shall cause the revalidation of such rules as the said rule may have revoked.
2. However, in the case of unconstitutionality or illegality due to breach of a subsequent constitutional or legal rule, such declaration shall only take effect when the latter comes into force.
3. Rulings in cases that have already been tried shall stand, save when the Constitutional Court rules to the contrary in relation to rules that concerned penal or disciplinary matters or administrative offences and their contents were less favourable to the defendant.
4. When required for the purposes of legal certainty, reasons of fairness or an exceptionally important public interest, the grounds for which shall be given, the Constitutional Court may rule that the scope of the effects of the unconstitutionality or illegality shall be more restricted than those provided for in (1) and (2) above.

## Article 283: Unconstitutionality by omission

• Ombudsman

1. At the request of the President of the Republic, the Ombudsman, or, on the grounds of the breach of one or more rights of the autonomous regions, presidents of Legislative Assemblies of the autonomous regions, the Constitutional Court shall review and verify any failure to comply with this Constitution by means of the omission of legislative measures needed to make constitutional rules executable.
2. Whenever the Constitutional Court determines that unconstitutionality by omission exists, it shall notify competent legislative body thereof.

• Constitution amendment procedure

## Title II: Revision of the Constitution

### Article 284: Responsibility and time for revisions

1. The Assembly of the Republic may revise the Constitution five years after the date of publication of the last ordinary revision law.
2. However, by a four-fifths majority of all the Members in full exercise of their office, the Assembly of the Republic may take extraordinary revision powers at any time.

### Article 285: Power to initiate revisions

1. Members shall possess the power to initiate revisions.
2. Once a draft revision of the Constitution has been submitted, any others shall be submitted within thirty days.

### Article 286: Passage and enactment

1. Alterations to the Constitution shall require passage by a two-thirds majority of all the Members in full exercise of their office.
2. Such alterations to the Constitution as are passed shall be collected together in a single revision law.

3. The President of the Republic shall not refuse to enact such laws.

## **Article 287: New text of the Constitution**

1. Alterations to the Constitution shall be inserted in the correct place by means of such replacements, eliminations and additions as may be necessary.
2. The new text of the Constitution shall be published along with the revision law.

## **Article 288: Matters in which revision shall be restricted**

Constitutional revision laws shall 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 in relation to the ownership of the means of production;
- g. The requirement for economic plans, which shall exist within the framework of a mixed economy;
- h. The elected appointment of the officeholders of the bodies that exercise sovereign power, of the bodies of the autonomous regions and of local government bodies by universal, direct, secret and periodic suffrage; and the proportional representation system;
- i. Plural expression and political organisation, including political parties, and the right to democratic opposition;
- j. The separation and interdependence of the bodies that exercise sovereign power;
- l. The subjection of legal rules to a 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.

• Emergency provisions

## **Article 289: Circumstances in which revision shall be restricted**

No act involving the revision of this Constitution shall 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, such constitutional laws enacted after 25 April 1974 as are not safeguarded in this chapter shall be considered ordinary laws.
2. The ordinary law that existed prior to the entry into force of this Constitution shall be maintained on condition that it is not contrary to this Constitution or to the principles enshrined therein.

• Subsidiary unit government

### **Article 291: Districts**

1. Until such time as the administrative regions are not instituted de facto, such areas as they do not cover shall continue to be divided into districts.
2. Each district shall possess a decision-making assembly composed of representatives from its municipalities, under such terms as the law shall lay down.
3. With the assistance of a council, the civil governor shall represent the Government and exercise the powers of oversight in the area that comprises each district.

• Crimes of the previous regime

### **Article 292: Indictment and trial of PIDE/DGS(\*) agents and officials**

1. Law no. 8/75, dated 25 July 1975, as revised by Law no. 16/75, dated 23 December 1975, and by Law no. 18/75, dated 26 December 1975, shall remain in force.
2. The law may lay down in more detail the types of crime set out in Articles 2(2), 3, 4b and 5 of the statute referred to in the previous paragraph.
3. The law may especially regulate the extraordinary extenuating circumstances provided for in Article 7 of the same statute. (\*) The PIDE/DGS (International and State Defence Police / Directorate-General of Security) was the New State's political police.

## Article 293: Reprivatisation of property nationalised after 25 April 1974

1. A framework law passed by an absolute majority of all the Members 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. Such reprivatisations shall observe the following fundamental principles:
  - a. As a general rule, reprivatisations of the ownership of, or the right to use, means of production and other property nationalised after 25 April 1974 shall preferentially be conducted by public invitation to 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 state-owned businesses, to service the debt resulting from nationalisations, or for new capital investment in the productive sector;
  - c. The workers of businesses that are the object of reprivatisation shall retain all their rights and obligations in the reprivatisation process;
  - d. The workers of businesses that are the object of reprivatisation shall acquire the preferential right to subscribe a percentage of the business's 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 body.
2. Small and medium-sized businesses 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: Rules applicable to local authority bodies

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

## Article 295: Referendum on European Treaty

The provisions of Article 115(3) shall not prejudice the possibility of calling and holding a referendum on the approval of a treaty aimed at 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 shall bear the date of its passage by the Constituent Assembly: 2 April 1976.
2. The Constitution of the Portuguese Republic shall come into force on 25 April 1976.



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