

# Portugal's Constitution - 1976

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*{ Adopted on: 2 April 1976 }*

## **Preamble**

On 25 April 1974, the Armed Forces Movement, setting the seal on the Portuguese people's long resistance and interpreting its deep-seated feelings, overthrew the fascist regime.

The liberation of Portugal from dictatorship, oppression and colonialism represented a revolutionary change and an historic new beginning in Portuguese society.

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

The Constituent Assembly affirms the Portuguese people's decision to defend their national independence, safeguard the fundamental rights of citizens, establish the basic principles of democracy, secure the primacy of the rule of law in a democratic state, and open the way to socialist society, respecting the will of the Portuguese people and keeping in view the building of a freer, more just, and more fraternal country.

The Constituent Assembly, meeting in plenary session on 2 April 1976, approves and decrees the following Constitution of the Portuguese Republic.

## **[Part 0] Fundamental Principles**

### **Article 1 Portuguese Republic**

Portugal is a sovereign Republic, based on the dignity of the human person and the will of the people, and committed to building a free and fair society that unites in solidarity.

### **Article 2 Democratic State, Rule of Law**

The Portuguese Republic is a democratic State based on the rule of law, the sovereignty of the people, plurality of both democratic expression and democratic political organization as well as respect for and the safeguarding of fundamental rights and freedoms; its aim is to achieve economic, social, and cultural democracy and to push participatory democracy further.

### **Article 3 Sovereignty and Legality**

(1) Sovereignty, one and indivisible, rests with the people, who exercise it in accordance with the forms laid down in the Constitution.

(2) That State is subject to the Constitution and based on democratic legality.

(3) The validity of the laws and other acts of the State, the autonomous regions or local authorities are depend on their being in accordance with the Constitution.

### **Article 4 Portuguese citizenship**

All persons are Portuguese citizens who are considered as such by law or under an international convention.

## **Article 5 Territory**

(1) Portugal comprises the territory defined by history on the European continent and the archipelagos of the Azores and Madeira.

(2) The extent and limits of territorial waters, the exclusive economic zone, and the rights of Portugal to adjacent sea beds are laid down by law.

(3) The State may not, except for frontier rectifications, alienate any part of the Portuguese territory or of the sovereign rights it exercises over it.

## **Article 6 Unitary State**

(1) The State is a unitary one organized to respect the principles of the autonomy of local authorities and democratic decentralization of the administration.

(2) The archipelagos of the Azores and Madeira constitute autonomous regions with their own political and administrative statutes and self-governing organs.

## **Article 7 International Relations**

(1) In its international relations, Portugal is governed by the principles of national independence, respect for human rights, the right of peoples to self-determination and independence, equality among States, the peaceful settlement of international disputes, non-interference in the internal affairs of other States, and co-operation with all other peoples for the emancipation and progress of mankind.

(2) Portugal advocates the abolition of all forms of imperialism, colonialism, and aggression, simultaneous and controlled general disarmament, the dissolution of politico-military blocs, and the setting up of a collective security system, with a view to the creation of an international order capable of safeguarding peace and justice in the relations among peoples.

(3) Portugal recognizes the right of peoples to revolt against all forms of oppression, in particular colonialism and imperialism.

(4) Portugal maintains special bonds of friendship and co-operation with the Portuguese speaking countries.

(5) Portugal commits herself to the reinforcement of the European identity and to the strengthening up of the European States' action towards peace, economic progress, and justice in the relations among peoples.

## **Article 8 International Law**

(1) The rules and principles of general or ordinary international law are an integral part of Portuguese law.

(2) Rules provided for in international conventions duly ratified or approved, following their official publication, apply in municipal law as long as they remain internationally binding with respect to the Portuguese State.

(3) Rules laid down by the competent organs of international organization to which Portugal belongs, apply directly in municipal law insofar as the constitutive treaties as applicable provide to that effect.

## **Article 9 Basic Tasks of the State**

The basic tasks of the State are:

a) To safeguard national independence and create the political, economic, social, and cultural conditions conducive to it;

b) To safeguard fundamental rights and freedoms and respect for the principles of the democratic State based on law;

c) To defend political democracy, secure and promote the democratic participation of

the citizens in solving the national problems;

d) To promote the people's welfare and quality of life, real equality among the Portuguese as well as the realization of economic, social, and cultural rights by way of transforming and modernizing the economic and social structures;

e) To protect and enhance the cultural heritage of the Portuguese people, defend nature and the environment, conserve natural resources, and ensure a proper regional planning;

f) To secure training on and constant valorization of the Portuguese language, to defend its use and promote its international circulation.

### **Article 10 Universal Suffrage and Political Parties**

(1) The people exercise political power through universal, equal, direct, secret, and periodic suffrage and other forms laid down in the Constitution.

(2) The political parties contribute to the organization and expression of the will of the people and respect the principles of national independence and political democracy.

### **Article 11 National symbols**

(1) The National Flag is the symbol of the sovereignty of the Republic, the independence, the unity and the undivided nature of Portugal; it shall be the flag that was adopted by the Republic established by the Revolution of 5 October 1910.

(2) The National Anthem shall be A Portuguesa.

## **Part I Fundamental rights and duties**

### **Section I General principles**

#### **Article 12 Principle of Universality**

(1) All citizens enjoy the rights and are subject to the duties laid down in the Constitution.

(2) Bodies corporate enjoy such rights and are subject to such duties as are compatible with their nature.

#### **Article 13 Principle of Equality**

(1) All citizens have the same social dignity and are equal before the law.

(2) No one is privileged, favored, injured, deprived of any right, or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, or social condition.

#### **Article 14 Portuguese Citizens Abroad**

Portuguese citizens living or residing abroad enjoy the protection of the State in the exercise of their rights and are subject to such duties as are not incompatible with their absence from the country.

#### **Article 15 Aliens and Stateless Persons**

(1) Aliens and stateless persons staying or residing in Portugal enjoy the same rights and are subject to the same duties as Portuguese citizens.

(2) The foregoing paragraph does not apply to political rights, to the performance of public duties that are not predominantly technical, or to rights and duties restricted to Portuguese citizens under the Constitution and by law.

(3) Citizens of Portuguese speaking countries may, by international convention and subject to reciprocity, be granted rights not otherwise conferred to aliens, except the right of access to membership of the organs of supreme authority and the organs of self-government of the autonomous regions, service in the armed forces, and access to the diplomatic service.

(4) Subject to reciprocity, the law may confer upon aliens residing on the national territory the right to vote and to stand for election with respect to the election of members of organs of local authority.

### **Article 16 Fundamental Rights: Scope and Sense**

(1) The fundamental rights embodied in the Constitution do not exclude any other fundamental rights, either in the statute or resulting from applicable rules of international law.

(2) The provisions of the Constitution and laws relating to fundamental rights are to be read and interpreted in harmony with the Universal Declaration of Human Rights.

### **Article 17 System of Rights, Freedoms, and Safeguards**

The general system of rights, freedoms, and safeguards covers those set forth in Section [II](#) and fundamental rights of a similar type.

### **Article 18 Legal force**

(1) The constitutional provisions relating to rights, freedoms, and safeguards are directly applicable and binding on public and private bodies.

(2) Rights, freedoms, and safeguards may be restricted by law in only those cases expressly provided for in the Constitution. Restrictions are limited to what is necessary to safeguard other rights or interests protected by the Constitution.

(3) Laws restricting rights, freedoms, and safeguards have to be general and abstract in character, may not have retroactive effects and may not limit in extent and scope the essential content of constitutional provisions.

### **Article 19 Suspension of the Exercise of Rights**

(1) The organs of supreme authority may not, jointly or separately, suspend the exercise of rights, freedoms, and safeguards except in case of a state of siege or emergency declared in the form laid down in the Constitution.

(2) A state of siege or emergency may be declared in all or part of the national territory, only in cases of actual or imminent aggression by foreign forces, serious threat to or disturbance of the democratic constitutional order, or public calamity.

(3) A state of emergency is declared where the circumstances mentioned in the preceding paragraph are less serious; it may at most entail the suspension of some of those rights, freedoms, and safeguards that allow ground for suspension.

(4) When choosing between a state of siege or a state of emergency, when deciding for one or the other, and when enforcing that decision, the principle of proportionality has to be respected; in particular, the scope of the decision, the duration and the ways and means provided for, must be limited to what is strictly necessary to promptly resuming the constitutional standards.

(5) The declaration of a state of siege or emergency is to be adequately substantiated and must specify the rights, freedoms, and safeguards whose exercise

is to be suspended; it is in force for no more than fifteen days or, where that declaration results from the declaration of war, for no longer than the period laid down in the law, although it may eventually be renewed within the limits above.

(6) The declaration of a state of siege or emergency in no case affects the rights to life, personal dignity and identity, civil capacity and citizenship of the person, the non-retroactive nature of criminal law, the right to defense of accused persons, and the freedom of conscience and religion.

(7) The declaration of a state of siege or emergency may affect the constitutional standards only within the limits set out in the Constitution and in the law; in particular, it may not affect the enforcement of the constitutional provisions concerning the powers and operation of the organs of supreme authority and the organs of self-government of the autonomous regions, as well as the rights and immunities of its members.

(8) The declaration of a state of siege or emergency empowers the authorities to take the necessary and adequate measures conducive to promptly resuming the constitutional standards.

### **Article 20 Access to Law and the Courts**

(1) Everyone has access to law and the courts for the defense of his or her legitimate rights; justice may not be withheld from a person for lack of financial means.

(2) Everyone has the right, in accordance with the law, to legal information and counsel as well as to legal aid.

### **Article 21 Right to resist**

Everyone has the right to resist any order that infringes his rights, freedoms, or safeguards and to repel by force any form of aggression when recourse to public authority is impossible.

### **Article 22 Liability of Public Bodies**

The State and other public bodies are jointly and severally liable under civil law for the members of their organs, their officials, and their staff members, for actions or omissions in the exercise of their functions or caused by such exercise which results in violations of rights, freedoms, or safeguards or in damage to another party.

### **Article 23 Ombudsman**

(1) Citizens may present complaints concerning actions or omissions on the part of the public authorities to the Ombudsman who examines them without power of decision and makes such recommendations to the appropriate organs as are necessary in order to prevent or make good injustice.

(2) The activities of the Ombudsman are independent of any acts of grace or legal remedies provided for in the Constitution and laws.

(3) The Ombudsman is an independent organ; he is appointed by the Assembly of the Republic.

(4) The organs and officials of the Public Administration have to co-operate with the Ombudsman for the carrying out of his functions.

## **Section II Rights, Freedoms, and Safeguards**

## **Chapter I Personal Rights, Freedoms, and Safeguards**

### **Article 24 Right to Life**

- (1) Human life is inviolable.
- (2) The death penalty is applicable in no case.

### **Article 25 Right to Personal Integrity**

- (1) The moral and physical integrity of the persons is inviolable.
- (2) No one may be subjected to torture or to cruel, degrading, or inhuman treatment or punishment.

### **Article 26 Other Personal Rights**

- (1) Everyone's right to his or her personal identity, civil capacity, citizenship, good name and reputation, image, the right to speak out, and the right to the protection of the intimacy of his or her private and family life is recognized.
- (2) The law establishes effective safeguards against the abusive use, or any use that is contrary to human dignity, of information concerning persons and families.
- (3) A person may be deprived of citizenship or subjected to restrictions on his or her civil capacity only in cases and under conditions laid down by law, and never on political grounds.

### **Article 27 Right to Freedom and Security**

- (1) Everyone has the right to freedom and security.
- (2) No one may be deprived of his or her freedom, in whole or in part, except as a result of a court judgment convicting him or her to a prison sentence on account of an offense punishable by law, or as a result of judicial application of a security measure.
- (3) In the following cases and as a matter of exception, the latter principle does not apply to deprivation of freedom, for the period and under the conditions laid down by law:
  - a) Remand in custody, where a person is taken in *flagrante delicto* or where there is strong evidence that the person has committed a deliberate offense punishable, at the top of the scale, with imprisonment for over three years;
  - b) The arrest or detention of a person who has unlawfully entered or stayed in the national territory or against whom extradition or deportation proceedings have been instituted;
  - c) Disciplinary imprisonment of military, who are guaranteed the right to appeal to the competent court;
  - d) Subjection of a minor to measures of protection, assistance or education in a suitable establishment, decided by the competent court;
  - e) Detention by court order due to disobedience to a court order or to ensure appearance before the competent judicial authority.
- (4) Every person who is deprived of freedom shall be informed, immediately and in a comprehensible way, of the reasons of his or her arrest or detention, as well as of his or her rights.
- (5) Any deprivation of freedom in violation of the provisions of the Constitution and the law results in the State having the duty to compensate the aggrieved party in accordance with what is laid down by law.

### **Article 28 Remand in Custody**

(1) Detention without judicial charge, within forty eight hours, is subject to the scrutiny of a court, for validation or continuation of detention; the court hears the reasons for the detention, informs the prisoner thereof, interrogates the latter, and allows him or her the chance to defend him or herself.

(2) Remanding someone in custody may not be continued where it can be replaced by bail or by any other more favorable measure provided by law.

(3) A court order for a measure involving deprivation of freedom or for its continuance immediately has to be made known to the person indicated by the prisoner, be it a relative of the latter or a person in his or her trust.

(4) Remanding someone in custody, both before and after judicial charge, is subject to the time limitations laid down by law.

### **Article 29 Application of Criminal Law**

(1) No one may be convicted under criminal law except by virtue of existing legislation making the action or omission punishable, and no one may be subjected to a security measure involving deprivation of freedom for reasons that do not warrant such a measure under existing legislation.

(2) The foregoing paragraph does not prevent the punishment, within the limits of municipal law, of an action or omission which at the time it was committed was regarded as criminal by virtue of the commonly accepted general principles of international law.

(3) No sentences or security measures is applied that is not expressly provided for in previous laws.

(4) No one may be subjected to a sentence or security measure that is more severe than those provided for at the time the act was committed or the plans therefor were laid. Criminal laws more favorable to the offender apply retroactively.

(5) No one can be tried more than once for the same offence.

(6) Citizens who have been unjustly convicted have the right, under conditions to be laid down by law, to have their sentences reviewed and to be compensated for losses suffered.

### **Article 30 Limits on Sentences and Security Measures**

(1) No one may be subjected to a sentence or security measure involving deprivation or restriction of freedom for life or for an unlimited or indefinite term.

(2) In case of danger due to serious mental disorder that cannot be treated in an open environment, security measures involving deprivation or restriction of freedom may be extended successively by judicial decision in each case, for as long as the said condition lasts.

(3) Sentences are not transferable.

(4) No sentence may involve, as a necessary effect, the loss of any civil, occupational, or political rights.

(5) The persons who are convicted to a sentence or a security measure involving deprivation of freedom enjoy the fundamental rights, save the limitations that are inherent in the conviction and the requirements of its enforcement.

### **Article 31 Habeas Corpus**

(1) The remedy of *habeas corpus* is available before a court of law or court martial, according to the case, against any wrongful use of power in the form of unlawful detention.

(2) *Habeas corpus* may be demanded by the prisoner or by any citizen in enjoyment

of his political rights.

(3) The court rules on a motion for *habeas corpus* within eight days at a hearing in the presence of both parties.

### **Article 32 Safeguards in Criminal Proceedings**

(1) Criminal proceedings have to provide all necessary safeguards for the defence.

(2) Everyone charged with an offence is presumed innocent until his conviction has acquired the force of *res judicata*, and he is tried as fast as is compatible with defence safeguards.

(3) The accused has the right to choose and to be assisted by counsel at all stages of the proceedings. The cases and stages in which this is compulsory are specified by law.

(4) A judge has jurisdiction throughout the preliminary investigation. In accordance with the law, the judge may delegate to other persons those acts of investigation that are not directly connected with fundamental rights.

(5) Criminal proceedings are accusatory in structure, and the trial and the acts of the preliminary investigation to be determined by law are subject to the principle that both parties should be heard.

(6) Any evidence obtained by torture, force, violation of the physical or moral integrity of the individual, wrongful interference in private life, the home, correspondence, or telecommunications are of no effect.

(7) No case may be withheld from the court that has jurisdiction under previously existing law.

(8) In proceedings concerning regulatory offences, the accused is guaranteed the right to a hearing as well as the right to defend him or herself.

### **Article 33 Extradition, Deportation, Right to Asylum**

(1) Portuguese citizens may not be extradited or deported from the national territory.

(2) No one may be extradited for political reasons.

(3) No one may be extradited for crimes which carry the death penalty under the law of the requesting State.

(4) Extradition is decided only by a judicial authority.

(5) Deportation of persons who have entered or are staying regularly on the national territory, who have obtained a residence permit, or who have lodged a non-refused asylum application, is decided only by a judicial authority; the law provides for expeditious forms of decisionmaking.

(6) The right of asylum is secured to aliens and stateless persons who are persecuted or seriously threatened of persecution as a result of their activities on behalf of democracy, social and national liberation, peace among the peoples, or individual freedom and human rights.

(7) The status of political refugees are defined by law.

### **Article 34 Inviolability of Home and Correspondence**

(1) The individual's home and the privacy of his correspondence and other means of private communication are inviolable.

(2) A citizen's home may not be entered against his will, except by order of the competent judicial authority and in the cases and according to the forms laid down by law.

(3) No one may enter the home of any person at night without his consent.

(4) Any interference by public authority with correspondence or telecommunications,

apart from the cases laid down by law in connection with criminal procedure, are prohibited.

### **Article 35 Use of Data Processing**

(1) Without prejudice to the provisions of the law on State secrecy and justice secrecy, all citizens have the right of access to the data contained in automated data records and files concerning them as well as the right to be informed of the use for which they are intended; they are entitled to request that the contents thereof be corrected and brought up to date.

(2) Access to personal data records or files are forbidden for purposes of getting information relating to third parties as well as for the interconnection of these files, save in exceptional cases as provided for in the law and in Article [18](#).

(3) Data processing may not be used in regard to information concerning a person's philosophical or political convictions, party or trade union affiliations, religious beliefs, or private life, except in the case of non-identifiable data for statistical purposes.

(4) The law defines the concept of personal data for the purposes of data storage as well as the conditions for establishing data banks and data basis by public or private entities and the conditions of utilization and access.

(5) Citizens may not be issued all-purpose national identification numbers.

(6) The law defines the provisions applicable to transborder data flows establishing adequate norms of protection of personal data and of any other data in which the national interest is justified.

### **Article 36 Family, Marriage, and Filiation**

(1) Everyone has the right to found a family and marry on terms of complete equality.

(2) The requirements for and effects of marriage and its dissolution by death or divorce are regulated by law without distinction as to the form in which the marriage is or was contracted.

(3) Spouses have equal rights and duties with respect to their civil and political capacity as well as the maintenance and upbringing of their children.

(4) Children born out of wedlock may not for that reason be the subject of discrimination; discriminatory designations of filiation may not be used by the law or by Government departments.

(5) Parents have the right and the duty to bring up and maintain their children.

(6) Children are not to be separated from their parents unless the latter fail to perform their fundamental duties towards the former, and then only by judicial decision.

(7) Adoption is regulated and protected in accordance with the law.

### **Article 37 Freedom of Expression and Information**

(1) Everyone has the right to express and make known his other thoughts freely by words, images, or any other means, and also the right to inform, obtain information, and be informed without hindrance or discrimination.

(2) The exercise of these rights may not be prevented or restricted by any type or form of censorship.

(3) Offences committed in the exercise of these rights are punishable under the general principles of criminal law, the courts of law having jurisdiction to try them.

(4) The right of reply and rectification and the right to compensation for losses suffered are equally and effectively secured to all natural and artificial persons.

### **Article 38 Freedom of the Press and Mass Media**

- (1) Freedom of the press is safeguarded.
- (2) Freedom of the press includes:
  - a) The freedom of expression and creativeness for journalists and literary collaborators as well as a role for the former in giving editorial direction to the concerned mass media, save where the latter belong to the State or have a doctrinal or denominational character;
  - b) The journalists' right of access to the sources of information, protection of their professional independence and secrecy, and election of editorial councils, in accordance with the law;
  - c) The right to start newspapers and any other publication regardless of any prior administrative authorization, deposit, or qualification.
- (3) The law ensures, in a general way, disclosure of the ownership and forms of financing of the mass media.
- (4) The State ensures the freedom and independence of the mass media against the political and economic powers; it imposes the principle of specialty with respect to companies that own general information media; it treats and support the latter in a non-discriminatory fashion and prevents their concentration, notably through multiple or inter-locking financial interests.
- (5) The State ensures the existence and the operation of a public service of radio and television.
- (6) The structure and the operation of the media that remain within the public sector ensure their independence against the Government, the administration, and other public bodies; it also ensures that the different lines of opinion may be expressed and confronted.
- (7) Radio and television stations may operate only where a license to that effect has been delivered pursuant to a public competition held in accordance with the law.

### **Article 39 High Authority for the Mass Media**

- (1) The High Authority for the mass media secures the right to information, the freedom of the press, the independence of the mass media against the political and economic powers, the possibility of expression and confrontation of the different lines of opinion, as well as the exercise of the right to broadcasting time, the right of reply and the right of political argument.
- (2) The High Authority for the mass media is an independent body, made up, in accordance with the law, of thirteen members including among them the following:
  - a) One judge appointed by the Higher Council of the Bench, who is in the chair;
  - b) Five members elected by the Assembly of the Republic according to the system of proportional representation and the Hondt highest average method;
  - c) Three members appointed by the Government;
  - d) Four members representing, notably, public opinion, the mass media, and culture.
- (3) The High Authority for the mass media gives an opinion prior to any government decision concerning the licensing of private television channels; such a decision, if favorable, falls only upon an application that will have been the subject of a favorable opinion.
- (4) Within the delay provided for in the law and prior to the appointment and removal of the directors of the mass media belonging to the State, to other public bodies or to bodies directly or indirectly under the economic control of the State, the High Authority for the mass media also give a public and substantiated opinion.
- (5) The law regulates the functioning of the High Authority for the mass media.

#### **Article 40 Right to Broadcasting Time, Reply, and Political Argument**

(1) The political parties, the trade unions, the professional organizations, and the organizations representing economic activities, according to their representation and to objective criteria laid down by the law, have the right to broadcasting time on publicly owned radio and television.

(2) The political parties represented in the Assembly of the Republic and not in Government have the right to broadcasting time on publicly owned radio and television, on a *pro rata* basis and in accordance with the law; they also have the right to reply and to political argument with respect to the political statements of the Government, in accordance with the law. The length and the relevance afforded to the exercise of such rights is equal to what the Government was respectively granted.

(3) In election periods, the competitors have the right to regular and equitable broadcasting time on radio and television stations of national and regional relevance, in accordance with the law.

#### **Article 41 Freedom of Conscience, Religion, and Worship**

(1) Freedom of conscience, religion, and worship are inviolable.

(2) No one may be persecuted, deprived of rights, or exempted from civil obligations or duties because of his convictions or religious practices.

(3) No one may be questioned by any authority about his or her convictions or religious practices, except for gathering of statistical data that cannot be identified individually, nor shall anyone be prejudiced by his or her refusal to reply.

(4) The churches and religious communities are separate from the State and free to organize and exercise their own ceremonies and worship.

(5) The freedom to teach any religion within its own denomination and the use of its own means of public information for the pursuit of its activities, are safeguarded.

(6) The right to be a conscientious objector is safeguarded in accordance with the law.

#### **Article 42 Freedom of Cultural Creation**

(1) Intellectual, artistic, and scientific creation are unrestricted.

(2) This freedom includes the right to invention, production, and dissemination of scientific, literary, or artistic works, including legal protection of copyright.

#### **Article 43 Freedom to Learn and Teach**

(1) The freedom to learn and teach is safeguarded.

(2) The State may not arrogate to itself the right to plan education and culture in accordance with any philosophical, aesthetic, political, ideological, or religious guidelines.

(3) Public education is non-denominational.

(4) The right to establish private and co-operative schools is safeguarded.

#### **Article 44 Right to Travel and Emigrate**

(1) The right of all citizens to travel and to settle freely anywhere in national territory is safeguarded.

(2) The right to emigrate or leave the national territory and the right to return to it are secured to everyone.

#### **Article 45 Right to Meet and Demonstrate**

- (1) Citizens have the right to meet peacefully and without arms, even in public places, without requiring any authorization.
- (2) The right of all citizens to demonstrate is recognised.

#### **Article 46 Freedom of Association**

- (1) Citizens have the right to form associations freely and without requiring any authorization provided such associations are not intended to promote violence and their objectives are not contrary to the criminal law.
- (2) Associations may pursue their objectives freely without interference by any public authority. They cannot be dissolved by the State and their activities may not be suspended except by judicial decision in the cases provided by law.
- (3) No one is obliged to join any association or forced by any means to remain in it.
- (4) Armed, military-type, militarized, or para-military associations outside the State and the Armed Forces and organizations which adopt fascist ideology are not permitted.

#### **Article 47 Freedom to Choose One's Occupation and Enter the Civil Service**

- (1) Everyone has the right to choose freely his or her occupation or type of work, except for legal restrictions laid down in the public interest or inherent to his or her own capacity.
- (2) All citizens have the right to enter the civil service under conditions of equality and freedom, generally through public competitions.

## **Chapter II Rights, Freedoms, and Guarantees of Political Participation**

#### **Article 48 Participation in Public Life**

- (1) All citizens have the right to take part in political life and in the control of the country's public affairs, either directly or through freely-elected representatives.
- (2) Every citizen has the right to objective information about the acts of the State and 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) All citizens who are over 18 years of age have the right to vote, except for the incapacities laid down in general law.
- (2) The exercise of the right to vote is personal and constitutes a civic duty.

#### **Article 50 Right to Access to Public Office**

- (1) All citizens have the right of access to public office under conditions of equality and freedom.
- (2) No one may be discriminated against in his or her assignment to a specific post, employment, professional career, or social benefits to which he or she has a right because of the exercise of political rights or the holding of public office.
- (3) With respect to access to elective office, the law establishes only such limitations as are necessary in order to secure the electors freedom of choice as well as the unbiased and independent carrying out of the functions that go with the office.

#### **Article 51 Political Associations and Parties**

(1) Freedom of association includes the right to set up and join political associations and parties and through them to work jointly and democratically to give form to the will of the people and to organize political power.

(2) No one may be a member of more than one political party simultaneously, or be deprived of the exercise of any right because of membership, or cessation of membership, of a lawfully constituted party.

(3) Without prejudice to the philosophy or ideology inspiring their programs, political parties may not use names that contain terms directly related to any religion or church or use emblems which may be mistaken for national or religious symbols.

(4) No party may be established whose name or displayed aims indicate a regional nature or field of action.

### **Article 52 Right to Petition and *Actio Popularis***

(1) All citizens have the right to submit, individually or jointly, petitions, representations, claims, and complaints to the organs of supreme authority or any authority, for the purpose of defending their rights, the Constitution, the laws, or the general interests.

(2) The law sets out the requirements under which petitions submitted jointly to the Assembly of the Republic are examined in a plenary sitting.

(3) Everyone, either personally or through associations that purport to defend the interests at stake, enjoys the right to *actio popularis* in the cases and under the conditions provided by law, notably the right to promote the prevention, the suppression, and the prosecution of offences against public health, the environment, the quality of life, and the cultural heritage, as well as to claim the corresponding damages for the aggrieved party or parties.

## **Chapter III Rights, Freedoms, and Safeguards of Workers**

### **Article 53 Job Security**

The right of workers to job security is safeguarded. Dismissals without just cause or for political or ideological reasons are forbidden.

### **Article 54 Workers' Committees**

(1) Workers have the right to set up committees for the defence of their interests and for a democratic share in the running of their enterprise.

(2) The establishment of the committees is determined by general assemblies of the workers, who also approve their statutes and elect their members by direct and secret ballot.

(3) Coordinating committees may be set up in such a form as to safeguard the interests of the workers for the purpose of more effective intervention in economic reorganization.

(4) The members of the committees enjoy the protection afforded by law to trade union delegates.

(5) Workers' committees have the right to:

a) Receive all information needed for the pursuit of their activities;

b) Supervise the management of enterprises;

c) Intervene in the reorganization of production units;

d) Participate in the drawing up of labor legislation and social and economic plans

concerning their sector;

e) Manage or participate in the management of the social works of enterprises;

f) Promote the election of representatives of the workers to the management organs of enterprises belonging to the State or other public bodies, in accordance with the law.

### **Article 55 Trade Union Freedom**

(1) Workers are free to form trade unions, a condition and safeguard for the building of their unity in defence of their rights and interests.

(2) In the exercise of trade union freedom, the following freedoms are safeguarded for workers without discrimination:

a) Freedom to set up trade union associations at all levels;

b) Freedom of membership, no worker being required to pay dues to a trade union of which he is not a member;

c) Freedom in the organization and internal regulation of trade union associations;

d) The right to engage in trade union activity within the enterprise;

e) The right to different tendencies, in ways to be determined by the statutes thereof.

(3) Trade union associations are governed by the principles of democratic organization and management, based on regular elections to their governing bodies by secret ballot. They are not subject to any authorization or recognition, their foundation being active participation by the workers in all aspects of trade union activity.

(4) Trade union associations are independent of employers, the State, and religious denominations. Adequate safeguards for such independence has to be laid down by law as the foundation of the unity of the working classes.

(5) Trade union associations have the right to establish relations with or to join international trade union organizations.

(6) The law secures adequate protection to the elected representatives of workers against any forms of constraint, coercion, or limitation of the legitimate performance of their duties.

### **Article 56 Rights of Trade Union Associations and Collective Agreements**

(1) Trade union associations are competent to defend and promote the defense of the rights and interests of the workers they represent.

(2) Trade union associations have the right to:

a) Participate in the preparation of labor legislation;

b) Participate in the management of social security institutions and other bodies whose aim is to satisfy the interests of the working classes;

c) Participate in the supervision of the implementation of economic and social plans;

d) Be represented in the social dialogue bodies, in accordance with the law.

(3) Trade union associations have the powers to exercise the right of concluding collective agreements.

(4) The rules governing the powers to conclude collective labor agreements and the scope of their provisions are laid down by law.

### **Article 57 Right to Strike and Prohibition of Lock-Outs**

(1) The right to strike is safeguarded.

(2) Workers are entitled to decide what interests are to be protected by means of strikes. The sphere of such interests is not to be restricted by law.

(3) Lock-outs are prohibited.

## **Section III Economic, Social, and Cultural Rights and Duties**

### **Chapter I Economic Rights and Duties**

#### **Article 58 Right to Work**

(1) Everyone has the right to work.

(2) The duty to work is inseparable from the right to work, except for those persons whose capacities have been diminished by age, sickness, or disability.

(3) It is the duty of the State, by implementing plans for economic and social policy, to safeguard the right to work, ensuring:

a) The implementation of full employment policies;

b) Equality of opportunity in the choice of occupation or type of work and conditions preventing access to any post, work, or professional category being prohibited or restricted by reason of a person's sex;

c) Cultural, technical, and vocational training for workers.

#### **Article 59 Rights of Workers**

(1) All workers, regardless of their age, sex, race, nationality, land of origin, religion, or political or ideological convictions, are entitled to:

a) Remuneration for their work according to its quantity, nature, and quality, on the principle of equal pay for equal work, so as to secure to them an appropriate livelihood;

b) The organization of work in conditions making for dignity so as to permit personal self-fulfillment;

c) Safe and healthy working conditions;

d) Rest and recreation, a limit to the length of the working day, a weekly rest day and holidays with pay;

e) Material assistance when they are involuntarily unemployed.

(2) It is the duty of the State to secure the conditions of work, remuneration, and rest to which workers are entitled, in particular by:

a) Fixing and keeping up to date a national minimum wage and maximum wage, having regard among other factors to workers' needs, the increase in the cost of living, the degree of development of the forces of production, economic and financial stability, and the formation of capital for development;

b) Setting limits on the length of working time at the national level;

c) Special protection at work for women during pregnancy and after childbirth, for minors, for disabled persons, and for those engaged in activities requiring particular effort or working in unhealthy, poisonous, or dangerous conditions;

d) Systematic development of a network of rest and holiday centers, in co-operation with welfare organizations;

e) Protecting the working conditions and safeguarding social benefits of emigrant workers.

#### **Article 60 Consumer Rights**

(1) Consumers have the right to goods and services of good quality, to training and information, to the protection of their health, safety, and economic interests, as well as to compensation for damages.

(2) Advertising has to be regulated by law; all forms of hidden, indirect, or fraudulent advertising are prohibited.

(3) Consumer associations and consumer co-operatives are entitled, in accordance with the law, to the support of the State and to being heard on the questions concerning consumer protection.

### **Article 61 Private Enterprise, Cooperatives, Industrial Self-Management**

(1) Private economic enterprise are freely exercised, within the framework set out in the Constitution and in the law, and with due account to the general interest.

(2) Everyone is recognized the right to freely set up cooperatives, as long as the cooperative principles are observed.

(3) Cooperatives freely carry on their activities and may join in unions, federations, and confederations.

(4) The right to industrial self-management is recognized in accordance with the law.

### **Article 62 Right to Private Property**

(1) Everyone is secured, in accordance with the Constitution, the right to private property and to its transfer during lifetime or by death.

(2) The requisition of property or its expropriation for public purposes are carried out only on the strength of the law and only against the payment of fair compensation.

## **Chapter II Social Rights and Duties**

### **Article 63 Social Security**

(1) Everyone is entitled to social security.

(2) It is the duty of the State to organize, coordinate, and subsidize a unified and decentralized social security system, with the participation of the trade union associations, other organizations representing the workers, and associations representing the other beneficiaries.

(3) The right to set up private and non-profit-making institutions of social solidarity that pursue the social security objectives laid out in this Article and in Articles [67 \(2\)\(b\)](#), [69](#), [70 \(1\)\(d\)](#), [71](#) and [72](#), is recognized; they are regulated in the law and subject to State supervision.

(4) The social security system protects citizens in sickness, old age, disability, widowhood, orphanhood, unemployment, and all other situations in which the means of subsistence or capacity to work are lost or reduced.

(5) All the periods of time spent working regardless of the sectors of activity where the work was performed, are taken into account for the purposes of calculating the amount of old age and disability pensions, in accordance with the law.

### **Article 64 Health**

(1) Everyone has the right to protection of his or her health and the duty to defend and foster it.

(2) The right to health protection is to be met by:

a) A universal and general national health service that, taking into account the

economic and social conditions of the citizens, tending to be free of charge;  
b) The creation of economic, social, and cultural conditions securing the protection of children, the young, and the old; the systematic improvement of living and working conditions; the promotion of physical fitness and sports in school and among the people; the development of the people's sanitary education.

(3) In order to secure the right to health protection, the State has prime duty to:

- a) Secure the access of all citizens, regardless of their economic condition, to preventive as well as curative and rehabilitation medical care;
  - b) Secure a rational and efficient medical and hospital coverage of the whole country;
  - c) Direct its action towards the socialization of the costs of medical and medico-pharmaceutical care;
  - d) Control and supervise medicine practiced in partnership and privately, coordinating it with the national health service;
  - e) Control and supervise the production, marketing and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis.
- (4) The national health service has a decentralized management in which the beneficiaries take part.

### **Article 65 Housing**

(1) Everyone has the right for himself and his family to a dwelling of adequate size satisfying standards of hygiene and comfort and preserving personal and family privacy.

(2) In order to safeguard the right to housing, it is the duty of the State to:

- a) Draw up and put into effect a housing policy that is a part of general regional planning and is based on urban planning that secures the existence of an adequate network of transport and social facilities;
- b) Encourage and support local authorities' and communities' initiatives aimed at solving their housing problems and promoting the establishment of housing cooperatives as well as individual building;
- c) Promote private building subject to the public interest, as well as access to privately owned dwelling.

(3) The State adopts a policy aimed at introducing a system of rents compatible with family incomes and of individual ownership of dwellings.

(4) The State and local authorities exercise effective supervision over immovable property, expropriate urban land where necessary, and lay down the legal requirements for its use.

### **Article 66 Environment and Quality of Life**

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

(2) It is the duty of the State, acting through appropriate bodies and having recourse to or taking support on popular initiatives, to:

- a) Prevent and control pollution, its effects and harmful forms of erosion;
- b) Order and promote regional planning aimed at achieving a proper location of activities, a balanced social and economic development, and resulting in biologically balanced landscapes;
- c) Create and develop natural reserves and parks and recreation areas and classify and protect landscapes and sites so as to ensure the conservation of nature and the preservation of cultural assets of historical or artistic interest;
- d) Promote the rational use of natural resources, safeguarding their capacity for

renewal and ecological stability.

### **Article 67 Family**

(1) The family, as a fundamental element of society has the right to protection by society and the State and to the creation of all conditions permitting the personal self-fulfillment of its members.

(2) The State has the duty of protecting the family, in particular by:

- a) Promoting the social and economic independence of family units;
- b) Promoting the establishment of a national network of assistance to mothers and children, a national network of day care centers and facilities for aiding the family, and a policy for the old;
- c) Cooperating with parents in the education of their children;
- d) Promoting by all necessary means the wider knowledge of family planning methods and setting up legal and technical structures permitting planned parenthood;
- e) Adjusting taxes and social security benefits in line with family responsibilities;
- f) Determining, after hearing associations representing families, and carrying out an overall and integrated family policy.

### **Article 68 Fatherhood and Motherhood**

(1) In carrying out their irreplaceable action with regard to their children, notably as concerns the education of the latter, fathers and mothers are entitled to protection by society and the State, with safeguards for their occupational self-fulfillment and their participation in the country's civic life.

(2) Motherhood and fatherhood are eminent social values.

(3) When pregnant and after having given birth, women at work are entitled to special protection, including entitlement to leave from work without loss of remuneration and any privileges.

### **Article 69 Childhood**

(1) Children have the right to the protection of society and the State with a view to their full development.

(2) Children, particularly orphans and abandoned children, are entitled to special protection by society and the State against any form of discrimination and oppression and against abuses of authority in the family and other institutions.

### **Article 70 Young People**

(1) Young people, especially young people at work, receive special protection for the purpose of effective enjoyment of their economic, social, and cultural rights, notably with respect to:

- a) Education, vocational training, and culture;
- b) Access to a first job, work, and social security;
- c) Physical education and sports;
- d) The use of leisure-time.

(2) The prime objective of youth policy is to develop in young people their character, a liking for unfettered creation, and a sense of service to the community, as well as to create the prerequisites leading to their effective integration in active life.

(3) In conjunction with the families, schools, businesses, neighborhood organizations, cultural associations, and trusts, recreational and cultural groups, the State promotes and assists the youth organizations in pursuing the above-mentioned objectives, as well as the international exchanges of young people.

### **Article 71 Disabled Persons**

(1) Citizens who are physically or mentally disabled enjoy all the rights and be subject to all the duties embodied in the Constitution, except for the exercise or performance of those for which their disablement renders them unfit.

(2) The State carries out a national policy for prevention and for the treatment, rehabilitation, and integration of handicapped persons, develops a form of education to make society aware of its duties of respect for them and solidarity with them, and ensures that they enjoy their rights fully, without prejudice to the rights and duties of their parents or guardians.

(3) The State assists the disabled persons' associations.

### **Article 72 Old Age**

(1) Old people have the right to economic security and to conditions of housing and of family and community life that prevents and overcomes their isolation and marginal position in society.

(2) The policy for the old also comprises economic, social, and cultural measures that tend to provide old people with opportunities for personal self-fulfillment through active participation in community life.

## **Chapter III Cultural Rights and Duties**

### **Article 73 Education, Culture, and Science**

(1) Everyone has the right to education and culture.

(2) The State promotes the democratization of education and other conditions so that education at school and by other methods can contribute to the development of the personality, to social progress, and to democratic participation in public life.

(3) In conjunction with the mass media, cultural association and trusts, cultural and recreational groups, associations for the safeguard of the cultural heritage, neighborhood organizations and other cultural agents, the State promotes the democratization of culture by encouraging and securing access by all citizens to the fruits of culture and cultural creation.

(4) Scientific creation and research, as well as technological innovation, is encouraged and assisted by the State.

### **Article 74 Education**

(1) Everyone has the right to education with safeguard of the right to equal opportunities of access to and success in schooling.

(2) Education contributes to overcome economic, social, and cultural imbalances, to enable citizens to participate on a democratic basis in a free society and to promote mutual understanding, tolerance, and a spirit of solidarity.

(3) In the implementation of its educational policy it is a State duty to:

- a) Ensure compulsory and free universal basic education;
- b) Institute a public system of pre-school education;
- c) Ensure permanent education and abolish illiteracy;
- d) Secure to all citizens, in accordance with their ability, access to the highest levels of education. scientific research and artistic creation;
- e) Institute by stages free education at all levels;

- f) Insert the schools in the communities they serve and coordinate education with economic, social and cultural activities;
  - g) Promote and support special education for the handicapped;
  - h) Secure for emigrants' children the teaching of the Portuguese language and access to Portuguese culture.
- (4) Access to work is forbidden, in accordance with the law, to school-age minor children.

#### **Article 75 Public, Private, and Cooperative Education**

- (1) The State establishes a network of public education institutions to meet the needs of the whole population.
- (2) The State recognizes and supervises private and cooperative education, in accordance with the law.

#### **Article 76 University and Access to Higher Level Education**

- (1) The rules governing access to the University and other institutions of higher education secure equal chances for all and the democratization of the system of education; they take into account the need for qualified graduates and the betterment of the country's educational, cultural, and scientific level.
- (2) The universities are autonomous with respect to the adoption of their rules and enjoy scientific, pedagogical, administrative, and financial autonomy, all in accordance with the law.

#### **Article 77 Democratic Participation in Education**

- (1) Teachers and students have the right to participate in the democratic management of schools in accordance with the law.
- (2) The law regulates the forms of participation of teachers', students' and parents' associations and the communities and institutions of a scientific nature in the determination of educational policy.

#### **Article 78 Cultural Enjoyment and Creation**

- (1) Everyone has the right to cultural enjoyment and creation, and the duty to preserve, defend, and increase the cultural heritage.
- (2) It is the duty of the State, in cooperation with all cultural agents, to:
- a) Encourage and ensure the access of all citizens, particularly the workers, to the means and instruments of cultural action, and to correct the asymmetries existing in the country in this regard;
  - b) Support initiatives stimulating individual and collective creation in its multiple forms and expression, and a greater circulation of quality cultural works and assets;
  - c) Promote the safeguarding and increase of the cultural heritage, making it a lively element of the common cultural identity;
  - d) Develop cultural relations with all peoples, particularly the Portuguese-speaking ones, and to ensure the defence and promotion of Portuguese culture abroad;
  - e) Coordinate cultural policy with other sectorial policies.

#### **Article 79 Physical Education and Sport**

- (1) Everyone has the right to physical education and sports.
- (2) It is the duty of the State, in conjunction with the schools and sports associations and groups, to promote, stimulate, guide, and support the practice and dissemination

of physical education and sports, as well as to prevent violence in sports.

## **Part II Economic Organization**

### **Section I General Principles**

#### **Article 80 Fundamental Principles**

The social and economic organization are based on the following principles:

- a) Subordination of economic power to democratic political, power;
- b) Co-existence of the public, the private, and the cooperative and social sectors with respect to the ownership of the means of production;
- c) Collective ownership of means of production and land as required by the public interest; collective ownership of the natural resources;
- d) Democratic planning of the economy;
- e) Protection of the cooperative and social sector with respect to the ownership of the means of production;
- f) Democratic intervention of the workers.

#### **Article 81 Prime Duties of the State**

In the economic and social sphere the prime duties of the State are:

- a) To promote an increase in the social and economic well-being and the quality of life of the people, especially the most underprivileged classes;
- b) To undertake the necessary corrections with respect to imbalances in the distribution of wealth and income;
- c) To ensure that the productive forces are fully used, particularly by watching over the efficiency of the public sector;
- d) To guide the economic and social development towards balanced growth of all sectors and regions and to progressively eliminate the economic and social differences between town and country;
- e) To abolish private monopolies and to prevent their being created, as well as to suppress abuses of economic power and all practices that are harmful to the common interest;
- f) To ensure that there is fair competition in business;
- g) To develop economic relations with all peoples while always safeguarding national independence and the interests of the Portuguese and of the country's economy;
- h) To suppress the very large estates and reorganize the very small farms;
- i) To ensure that the organizations representing the workers and the organizations representing economic activities participate in determining, implementing, and controlling the main economic and social measures;
- j) To protect the consumers;
- l) To set up the legal and technical structures that are necessary for introducing a system of democratic economic planning;
- m) To draw up a scientific and technological policy that furthers the country's development;
- n) To adopt a national energies policy that is in keeping with the conservation of natural resources and ecological balances, whilst promoting international co-operation

in this field.

### **Article 82 Sectors in the Ownership of the Means of Production**

(1) The co-existence of three sectors with respect to the ownership of the means of production is safeguarded.

(2) The public sector comprises the means of production that belong to and are managed by the State or other public bodies.

(3) The private sector comprises the means of production that belong to or are managed by private persons or private corporate bodies, without prejudice to the provisions in the following paragraph.

(4) The cooperative and social sector comprise the following:

- a) The means of production that belong to and are managed by cooperatives in accordance with the cooperative principles;
- b) The community's means of production that belong to and are managed by local communities;
- c) The means of production that are collectively exploited by workers.

### **Article 83 Requirements for Collective Ownership**

The law defines the ways and means of collective interference in and collective ownership of the means of production and land, as well as the criteria for fixing the corresponding compensation.

### **Article 84 Public Domain**

(1) The following are part of the public domain:

- a) The territorial waters with their beds and the contiguous sea beds, as well as the lakes, lagoons, and navigable or floatable water-courses, with their respective beds;
- b) The air layers above the territory and higher than the limits recognized to owners and lessees;
- c) Mineral beds, mineral and medical water-springs, underground natural cavities in the subsoil, save the rocks, ordinary soils, and other materials habitually used for building construction purposes;
- d) The roads;
- e) The national railways;
- f) Other property classified as such by the law.

(2) The law determines what is part of the public domain of the State, what is part of the public domain of the autonomous regions and what is part of the public domain of the local authorities; it also determines the applicable rules, the conditions involving the utilization of the public domain, and the limits thereof.

### **Article 85 Nationalization Measures Carried out After 25 April 1974**

(1) The re-privatization of the ownership of, or the entitlement to exploit, the means of production, and other property nationalized after 25 April 1974 are carried out only if in compliance with a framework-law adopted by the absolute majority of the Members entitled to sit in the Assembly of the Republic.

(2) Small and medium-sized businesses indirectly nationalized which are outside the basic sectors of the economy might be re-privatized in accordance with the law.

### **Article 86 Cooperatives and Experiences in Worker Self-Management**

(1) The State stimulates and supports the establishment and activity of cooperatives.

(2) Fiscal and financial concessions to cooperatives and more favorable conditions

for borrowing and for obtaining technical assistance are determined by law.

(3) The State supports viable experiences in worker self-management.

#### **Article 87 Private Businesses**

(1) The State supervises compliance with the Constitution and the law on the part of private businesses and protects small and medium-sized economically viable businesses.

(2) The State intervenes in the management of private businesses only on a temporary basis, where the law expressly provides to that effect, and, as a rule, subsequently to a judicial decision.

(3) The law determines which are the basic sectors wherein the activity of private businesses and other entities of the same nature is forbidden.

#### **Article 88 Economic Activity and Foreign Investment**

Economic activity and investment by foreign natural or artificial persons is regulated by law, to ensure that they contribute to the country's development and to safeguard national independence and the interests of the workers.

#### **Article 89 Abandoned Means of Production**

(1) Abandoned means of production may be expropriated on conditions to be laid down by law with due regard to the special situation of property of workers who have emigrated.

(2) Means of production which are unjustifiedly abandoned may also be compulsory given out on lease, or to a concessionaire, under conditions to be laid down by the law.

#### **Article 90 Workers Participation in Management**

Effective participation of workers in the management of the production units of the public sector has to be safeguarded.

## **Section II Plans**

#### **Article 91 Objectives of the Plans**

The objectives of the plans of economic and social development are to promote economic growth, a balanced development of the sectors and the regions, a fair partition of the national product among the individuals and among the regions, coordination of the economic policy with the social, educational, and cultural policies, the conservation of the ecological balances, the safeguard of the environment, and the quality of life of the Portuguese people.

#### **Article 92 Nature of the Plans**

The medium-term economic and social development plans as well as the annual plan - the financial picture of which appears in the Budget of the State and which contains the main guidelines for the sectorial and the regional plans - are prepared by the Government in conformity with the latter's program.

#### **Article 93 Preparation of the Plans**

(1) The Assembly of the Republic has the power to approve the major options

corresponding to each plan and to scrutinise the respective progress reports.  
(2) The bill containing the major options corresponding to each plan has to be accompanied by a report on the major overall and sectorial options that includes reasons substantiated by preparatory studies.

#### **Article 94 Implementation of the Plans**

The implementation of the plans is decentralized, with respect to both the regions and the sectors, without prejudice to coordination by the Government.

#### **Article 95 Economic and Social Council**

(1) The Economic and Social Council is the body for consultation and concertation in the economic and social policies field; it participates in the preparation of the economic and social development plans and exercises the other functions given to it by the law.

(2) Membership of the Economic and Social Council is determined by the law; it does in particular include representatives of the Government, of the organizations representing the workers, of the organizations representing the economic activities, of the autonomous regions, and of the local authorities.

(3) The law also defines the way in which the Economic and Social Council is organized and operates, as well as the rights and duties of its members.

### **Section III Agricultural, Commercial, and Industrial Policies**

#### **Article 96 Objectives of the Agricultural Policy**

(1) The objectives of the agricultural policy are as follows:

- a) To increase agricultural production and productivity whilst equipping agriculture with adequate infrastructures and human, technical, and financial means adequate to ensure that the country is supplied in a better way and that exports raise;
- b) To promote improvement in the economic, social, and cultural situation of rural workers and farmers, the rationalization of the land-owning structures, as well as the access to ownership or possession of the land and other means of production directly used in its exploitation by those who work it;
- c) To create adequate conditions in order to attain actual equality between those who work in agriculture and the other workers and in order to avoid that the agricultural sector be ill-favored in the exchange relations with other sectors;
- d) To ensure that the land and other natural resources are rationally used and managed, as well as to safekeeping their regenerating ability;
- e) To encourage the association of farmers and direct exploitation of the land.

(2) The State promotes a policy for rural planning and for the conversion of the agricultural use of land, in conformity with the ecological and social circumstances of the country.

#### **Article 97 Abolition of Very Large Estates**

(1) Reshaping the size of farming units whose dimensions are excessive from the viewpoint of the objectives of the agricultural policy is provided for by the law; the latter entitles the owner of expropriated estates to compensation and to reserve for himself an area that is big enough for him to exploit it under rational and viable conditions.

(2) Expropriated land is handed over in accordance with the law, either for ownership or for possession, to small farmers, preferably family farming units, to cooperatives of rural workers or of small farmers, or to other forms of exploitation of the land by workers; these provisions do not affect the possibility of establishing a probation period for the purpose of judging whether the exploitation is effective and rational prior to transferring full property rights.

#### **Article 98 Reshaping the Size of Very Small Farms**

Without affecting property rights and in accordance with the law, the State promotes reshaping the size of land exploitation units whose dimensions are smaller than what is adequate from the viewpoint of the objectives of the agricultural policy; it so promotes in particular by way of legal, tax, and credit incentives the achievement of the structural integration of units or, short of that, their economic integration, notably cooperative integration, or by way of deparceling out units.

#### **Article 99 Forms of Exploiting Land Belonging to Third Parties**

(1) Rules governing leasing or other forms of exploiting land belonging to third parties are provided for in the law in such a way as to safeguard the stability and the legitimate interests of the farmer.

(2) Censive and colonial systems are prohibited and conditions created for farmers whereby the limited liability system in farming may be effectively abolished.

#### **Article 100 State Aid**

(1) In pursuing the objectives of the agricultural policy, the State, as a matter of priority, assists the small and medium-sized farmers, notably where they are part of a family exploitation unit, either individually or grouped in cooperatives, as well as the cooperatives of farmers and other forms of exploitation by workers.

(2) State aid includes in particular the following:

- a) Granting technical assistance;
- b) Support from state-owned businesses and from cooperatives engaged in marketing at stages preceding and following production;
- c) Socialization of the risks resulting from unforeseeable or uncontrollable climatic and phytopathological events;
- d) Encouragement for the association of rural workers and farmers, in particular for the setting up of cooperatives for producing, buying, selling, transforming, or providing services, as well as for other ways of exploitation by workers.

#### **Article 101 Participation in Drawing up the Agricultural Policy**

The participation through the organizations that represent them, of the rural workers and the farmers in drawing up the agricultural policy, are secured.

#### **Article 102 Objectives of Commercial Policy**

The objectives of the commercial policy are as follows:

- a) Beneficial competition among those in trade;
- b) Rationalization of the distribution chains;
- c) Fight against speculative activities and restrictive trade practices;
- d) Developing and diversifying the external economic relations;
- e) Protecting the consumers.

#### **Article 103 Objectives of Industrial Policy**

The objectives of the industrial policy are as follows:

- a) Increasing the industrial production against a framework of modernization, adjustment of social and economic interests, and international integration of the Portuguese economy;
- b) Reinforcement of industrial and technological innovation;
- c) Increasing the competition and productivity of industries;
- d) Assistance to small and medium-sized businesses and, more generally, to initiatives and businesses that create jobs, increase exports or replace imports;
- e) Assistance with a view to giving international prominence to Portuguese companies.

## **Section IV Financial and Fiscal System**

### **Article 104 Financial System**

The structure of the financial system is laid down by law in such a way as to ensure that savings are encouraged and build up in security, and that the financial resources that are necessary for economic and social development are placed.

### **Article 105 Bank of Portugal**

The Bank of Portugal, in its capacity of central bank, has exclusive rights to issue money and cooperates in the implementation of the monetary and financial policies, in accordance with the Budget act, the objectives set out in the plans, as well as the Government's directives.

### **Article 106 Fiscal System**

- (1) The fiscal system aims at satisfying the financial needs of the State and other public bodies, as well as a fair partition of the incomes and the wealth.
- (2) Taxes are created by law, which determines the incidence rates, concessions, and safeguards for taxpayers.
- (3) No one may be compelled to pay taxes which have not been created as provided in the Constitution and whose settlement and collection are not effected in the forms laid down by law.

### **Article 107 Taxes**

- (1) The tax on personal income seeks to reduce inequality. It is a single progressive tax having regard to family needs and income and tries to limit incomes to a national maximum fixed by law each year.
- (2) Enterprises are taxed fundamentally on their real income.
- (3) The tax on inheritances and donations are to be progressive, so as to make for equality among citizens.
- (4) Consumer taxes seek to adapt the structure of consumption to the evolution of the needs of economic development and social justice, and the said taxes shall bear heavily on luxury articles.

### **Article 108 Budget**

- (1) The Budget of the State includes:
  - a) The breakdown of the revenues and the expenditures of the State, including the revenues and expenditures of the autonomous funds and departments:

b) The budget of the social security.

(2) The Budget is drawn up in accordance with the major options of the annual plan and takes into account statutory and contractual liabilities.

(3) The Budget is a single unit and specifies expenditure according to the applicable organic or functional classification so as to prevent the existence of secret appropriations and funds; it may also be structured according to programs.

(4) The Budget provides for the receipts necessary to cover expenditure; the rules for its implementation, the conditions for raising public loans, and the criteria under which alterations might be introduced by the Government in the articles classified organic, at the time of its implementation, with a view to its full implementation and in the framework of each budgetary program approved by the Assembly of the Republic, are laid down by law.

#### **Article 109 Preparation of the Budget**

(1) The Budget act is prepared, organized, adopted, and implemented in conformity with its respective framework law; the latter also provides for the rules concerning the preparation and the implementation of the budgets of the autonomous funds and departments.

(2) The draft Budget is tabled and submitted to a vote within the time frame laid down by law; the latter provides for the procedure applicable where such delays cannot be met.

(3) The draft Budget is accompanied by reports on:

a) The foreseeable development of the major macroeconomic aggregates that have a bearing on the Budget, as well as of the money supply and its counterparts;

b) The reasons for the differences in the anticipated receipts and expenditures with respect to the previous Budget;

c) The public debt, the treasurer's transactions, and the treasury accounts;

d) The situation with respect to the autonomous funds and departments;

e) The budgetary re-allocations in favor of the autonomous regions;

f) The financial transfers between Portugal and the outside world that have a bearing on the draft Budget;

g) The fiscal privileges and the corresponding foreseeable loss in receipts.

#### **Article 110 Supervision**

The implementation of the Budget is supervised by the Court of Audit and the Assembly of the Republic; upon the opinion of the former, the latter scrutinizes and approves the General Accounts of the State including the social security accounts.

### **Part III Organization of Political Power**

#### **Section I General Principles**

##### **Article 111 Source and Exercise of Power**

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

## **Article 112 Participation by Citizens in Political Life**

Direct and active participation by the citizens in political life is a condition and fundamental instrument for consolidation of the democratic system.

## **Article 113 Organs of Supreme Authority**

(1) The organs of supreme authority are the President of the Republic, the Assembly of the Republic, the Government, and the Courts.

(2) The formation, membership, powers, and operation of the organs of supreme authority are governed by the Constitution.

## **Article 114 Separation and Interdependence**

(1) The organs of supreme authority are separate and interdependent as established by the Constitution.

(2) No organ of supreme authority, organ of an autonomous region, or organ of local government may delegate its powers to other organs except in the cases and in the conditions expressly laid down in the Constitution and by law.

## **Article 115 Preceptive Acts**

(1) Legislative acts comprise laws, decree-laws, and regional legislative decrees.

(2) Laws and decree-laws have the same force, without prejudice to the organic laws having more force, to the decree-laws enacted under legislative authorization being subordinated to the corresponding laws and to the decree-laws developing the general principles of legal systems being also subordinated to the corresponding laws.

(3) Regional legislative decrees deal with matters of specific interest to the concerned region that are not under the exclusive competence of the Assembly of the Republic or the Government; they may not go against the general laws of the Republic save the provisions of [Article 229 \(1\)\(b\)](#).

(4) The general laws of the Republic comprise laws and decree-laws whose reason for being involves their application without reservation to the whole national territory.

(5) No law may create other categories of legislative acts or grant acts of any other nature the power of interpreting, integrating, altering, suspending, or revoking any of their precepts with external efficacy.

(6) Government regulations take the forms of regulative decrees when this is determined by the law they regulate and in the case of independent regulations.

(7) The regulations expressly indicate the laws they are meant to regulate or which define the subjective and objective competence for their issue.

## **Article 116 General Principles of Electoral Law**

(1) Direct, secret, and regular elections are the general rule in appointing the members of the elected organs of supreme authority, the autonomous regions, and local government.

(2) Registration of electors is compulsory and permanent and does not serve any other purpose. There is a single registration system for all elections by direct universal suffrage.

(3) Election campaigns must observe the following principles:

- a) Freedom of propaganda;
- b) Equality of opportunity and treatment for the various candidates;
- c) Impartiality towards candidates on the part of public bodies;
- d) Supervision of vote-counting.

- (4) Citizens have the duty to collaborate with the elections administration in the forms laid down by law;
- (5) Votes cast are converted into effective suffrage in accordance with the principle of proportional representation.
- (6) Acts dissolving corporate organs based on direct suffrage set the date of the new elections, to be held in the following ninety days and in accordance with the electoral law in force at the time of dissolution, otherwise the said acts are legally null and void.
- (7) The courts are competent to judge the regularity and validity of acts of electoral procedure.

### **Article 117 Political Parties and Right of Opposition**

- (1) Political parties participate in the organs based on direct universal suffrage in accordance with their electoral representation.
- (2) Minorities have the right of democratic opposition on conditions laid down in the Constitution.
- (3) The political parties represented in the Assembly of the Republic and not in Government, in particular have the right to be informed regularly and directly by the Government on the progress of the main matters of public interest; the political parties represented in any other assemblies that are designated through direct elections and not represented in the corresponding executive organ enjoy the same right with respect to the latter.

### **Article 118 Referendum**

- (1) Where the Constitution and the law so provides and in conformity with such provisions, subsequently to a proposal by the Assembly of the Republic or the Government, upon decision of the President of the Republic, the voting citizens enrolled on the national territory may be called upon to express themselves directly and on a mandatory basis.
- (2) The subjects of the referendum are only matters of relevant national interest such that the powers to decide them belong to the Assembly of the Republic or the Government by way of approval of an international convention or a legislative act.
- (3) The amendments to the Constitution, the matters provided for in Articles [164](#) and [167](#), as well as the questions and acts of a budgetary, fiscal, or financial nature, cannot be the subject of a referendum.
- (4) Each referendum deals with one single matter; the questions are formulated objectively, clearly, precisely, and in such terms as to require a yes or no answer; the maximum number of questions as well as the other requirements concerning the formulation and the carrying out of the referenda are laid down by law.
- (5) Referenda are not called or carried out between the dates when general elections for the organs of supreme authority, for the organs of self-government of the autonomous regions and the local powers, as well as for the European Parliament, are respectively called and carried out.
- (6) The President of the Republic submits the proposals for a referendum forwarded to him or her by the Assembly of the Republic or the Government, for preventive mandatory scrutiny of their conformity with the Constitution and the law.
- (7) The provisions of Article [116 \(1\), \(2\), \(3\), \(4\), and \(7\)](#) apply to the referenda *mutatis mutandis*.
- (8) The proposals for a referendum that are refused by the President of the Republic or the electoral body is not renewable during the same session of the Assembly,

unless there is a new election for the Assembly of the Republic or the Government resigns.

#### **Article 119 Corporate Organs**

- (1) Meetings of the assemblies that act as organs of supreme authority, organs of the autonomous regions, or organs of local government are public, except in cases provided for by law.
- (2) Decisions by corporate organs are taken when a majority of the statutory number of members is present.
- (3) Except in cases set forth in the Constitution, the law, and their own rules, decisions by corporate organs are taken by simple majority without counting abstentions.

#### **Article 120 Status of Holders of Political Office**

- (1) Holders of political office are politically, civilly, and criminally responsible for their acts and omissions in the exercise of their functions.
- (2) The law specifies the duties, responsibilities, rights, privileges, and immunities of holders of political office, as well as the cases where holding political office is incompatible with holding certain functions or pursuing certain activities.
- (3) The law specifies the offences for which holders of political office are liable as well as the applicable sanctions and their effects; the latter may include dismissal and forfeiture of the mandate.

#### **Article 121 Principle of Renewal**

No one may hold any national, regional, or local political office for life.

#### **Article 122 Publication of Decision**

- (1) The following are published in the official journal, the '*Diario da Republica*':
  - a) Constitutional laws;
  - b) International conventions, notification of ratifications thereof, and other notifications concerning them;
  - c) Laws, decree-laws, and regional legislative decrees;
  - d) Decrees of the President of the Republic;
  - e) Resolutions of the Assembly of the Republic, and the Regional Assemblies of the Azores and Madeira;
  - f) Rules of procedure of the Assembly of the Republic, the Council of State, and the Regional Assemblies of the Azores and Madeira;
  - g) Rulings of the Constitutional Court and rulings of other courts which are made binding to all by law;
  - h) Regulative decrees and other decrees and regulations of the Government, decrees of the Ministers of the Republic for the autonomous regions and regional regulative decrees;
  - i) Results of nation-wide elections and referenda.
- (2) Failure to publish the acts mentioned in the previous paragraph or any act of a general nature of the organs of sovereignty, the autonomous regions or the local authorities, make them null and void.
- (3) Forms of publication for other acts, and the consequences of failure to do so, are determined by law.

## **Section II President of the Republic**

### **Chapter I Status and Election**

#### **Article 123 Definition**

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

#### **Article 124 Election**

- (1) The President of the Republic is elected by direct and secret universal suffrage by the Portuguese citizens who are registered as voters on the national territory.
- (2) The right to vote is exercised in person on the national territory.

#### **Article 125 Eligibility for Election**

Citizens entitled to vote who are Portuguese by origin and more than 35 years of age are eligible for election.

#### **Article 126 Re-Election**

- (1) No one can be re-elected for a third consecutive term of office or during the five years immediately following the end of the second consecutive term of office.
- (2) Should the President of the Republic resign his office, he cannot stand as a candidate in the election immediately following nor in those held in the five year period immediately subsequent to his resignation.

#### **Article 127 Nominations**

- (1) Nominations for the office of President of the Republic are sponsored by no less than 7,500 and no more than 15,000 citizens entitled to vote.
- (2) Nominations are submitted to the Constitutional Court at least thirty days before the date fixed for the election.
- (3) Should a candidate die or should anything happen that incapacitates a candidate to perform the duties of President of the Republic, the election procedure are re-opened in accordance with conditions to be laid down by law.

#### **Article 128 Date of Election**

- (1) The President of the Republic is elected during the period of time that runs between the sixtieth and the thirtieth days before the last day of his predecessor's term of office, or between the sixtieth and the ninetieth days following the day in which the office falls vacant.
- (2) The election may not be held within the period of ninety days that precede or follow the date of elections to the Assembly of the Republic.
- (3) Where the circumstances mentioned in the preceding paragraph arise, the election must be held during the period of time that runs between the ninetieth and the hundredth days that follow the date of the elections for the Assembly of the Republic; the outgoing President's term of office then is automatically extended for the necessary period of time.
- (4) The date of the first in time of the two possible elections is fixed in such a way as

to allow both elections to be held within the periods of time mentioned in Paragraphs (1) and (3).

#### **Article 129 Election System**

(1) A candidate who obtains more than half the votes validly cast is elected President of the Republic. Blank ballots are not considered as having been validly cast.

(2) If none of the candidates obtains that number of votes, there is a second ballot in the twenty-first day following the date of the first ballot.

(3) Only the two candidates who have obtained most votes and who have not withdrawn stand for election in the second ballot.

#### **Article 130 Induction and Swearing-In**

(1) The President elect is inducted before the Assembly of the Republic.

(2) The induction takes place on the last day of the term of office of the outgoing President or, in the case of elections after the office has fallen vacant, on the eighth day following publication of the election result.

(3) During his induction the President of the Republic takes the following oath:

*"I swear on my honor to perform faithfully the office with which I am invested and to defend, fulfil, and cause to be fulfilled the Constitution of the Portuguese Republic."*

#### **Article 131 Term of Office**

(1) The President of the Republic holds office for five years. His term of office ends when the newly elected President is inducted.

(2) If the office falls vacant, the President of the Republic subsequently elected begins a new term of office.

#### **Article 132 Absence From the National Territory**

(1) The President of the Republic may not absent himself from the national territory without the consent of the Assembly of the Republic or of its Standing Committee, should the former not be in session.

(2) Consent is not necessary if the President of the Republic is in transit or on an unofficial journey of not more than five days, although the Assembly of the Republic shall be previously informed of these occurrences.

(3) Failure to comply with Paragraph (1) automatically results in forfeiture of office.

#### **Article 133 Criminal Liability**

(1) The President of the Republic is answerable before the Supreme Court of Justice for offences committed in the performance of his duties.

(2) It shall be the duty of the Assembly of the Republic to initiate proceedings at the proposal of one fifth and by a decision of two thirds of its members entitled to vote.

(3) Conviction results in dismissal from office and excludes re-election.

(4) The President of the Republic is answerable to the common courts after the end of his term of office for offences not committed in the performance of his duties.

#### **Article 134 Resignation**

(1) The President of the Republic may resign from office by message addressed to the Assembly of the Republic.

(2) Such resignation takes effect when the message is made known to the Assembly of the Republic, without prejudice to its later publication in the *Diano da Republica*.

### **Article 135 Acting President**

(1) During temporary incapacities to act of the President of the Republic and during vacancies in the office before the induction of the newly elected President, the presidential functions are performed by the President of the Assembly of the Republic or, should he be unable to do so, by his substitute.

(2) While acting as President of the Republic, the mandates of the President of the Assembly of the Republic or his substitute are automatically suspended.

## **Chapter II Powers**

### **Article 136 Powers With Regard to Other Organs**

Where other organs are concerned, the President of the Republic has the following powers:

- a) To preside over the Council of State;
- b) To fix the dates of the elections of the President of the Republic, for the Assembly of the Republic, for the European Parliament, and for the Regional Assemblies, in conformity with the electoral law;
- c) To convene extraordinary sessions of the Assembly of the Republic;
- d) To address messages to the Assembly of the Republic;
- e) To dissolve the Assembly of the Republic in compliance with the provisions of Article [175](#) and after having heard the parties represented in the Assembly and the Council of State;
- f) To appoint the Prime Minister in accordance with Article [190 \(1\)](#);
- g) To dismiss the Government in accordance with Article [198 \(2\)](#) and relieve the Prime Minister of his or her post in accordance with Article [189 \(4\)](#);
- h) To appoint members of the Government and relieve them of their posts at the proposal of the Prime Minister;
- i) To preside over the Council of Ministers when the Prime Minister so requests;
- j) To dissolve the organs of self-government of the autonomous regions, on his own initiative or at the proposal of the Government, after having heard the Assembly of the Republic and the Council of State;
- l) To appoint and relieve of their posts the Ministers for the Republic for the autonomous regions, at the proposal of the Government and after having heard the Council of State;
- m) To appoint and relieve of their posts, at the proposal of the Government, the president of the Court of Audit and the Attorney-General;
- n) To appoint five of the members of the Council of State and two of the members of the Higher Council of the Bench;
- o) To preside over the Higher Council of National Defence;
- p) To appoint and relieve of their posts, at the proposal of the Government, the Chief of the General Staff of the Armed Forces, the Deputy Chief of Staff of the Armed Forces, if any, and the Chiefs of Staff of the three services of the Armed Forces, after having heard, in the two latter cases, the Chief of the General Staff of the Armed Forces.

### **Article 137 Powers With Regard to Office**

The President of the Republic has the following powers:

- a) To act as Supreme Commander of the Armed Forces;

- b) To promulgate and order publication of laws, decree-laws, and regulative decrees as well as to sign the resolutions of the Assembly of the Republic that approve international agreements and other decrees of the Government;
- c) To submit matters of relevant national interests to a referendum, in accordance with the provisions of Article [118](#);
- d) To declare a state of siege or a state of emergency, in conformity with the provisions of Articles [19](#) and [141](#);
- e) To speak out on all serious emergencies in the life of the Republic;
- f) To grant pardons and commute sentences, after having heard the Government;
- g) To request the Constitutional Court to examine preventively whether the provisions of laws, decree-laws, and international conventions are in conformity with the Constitution;
- h) To request the Constitutional Court to rule that given legal provisions are contrary to the Constitution or that the Constitution was violated by way of omission;
- i) To perform acts concerning the territory of Macao as laid down in the statute pertaining to the latter;
- j) To award decorations in accordance with the law and to act as grand-master of the Portuguese honorary orders.

### **Article 138 Powers in International Relations**

The President of the Republic is competent in international relations to:

- a) Appoint ambassadors and envoys extraordinary at the proposal of the Government, and accept the credentials of foreign diplomatic representatives;
- b) Ratify international treaties once they have been duly approved;
- c) Declare war in the case of actual or Imminent aggression and make peace, at the proposal of the Government, after hearing the Council of State and having obtained the authorization of the Assembly of the Republic or, when the latter is not in session and it is impossible to call it into session at once, of its Standing Committee.

### **Article 139 Promulgation and Veto**

(1) Within twenty days of having received any decree of the Assembly of the Republic for the purpose of promulgation as a law, or of the date of publication of a ruling of the Constitutional Court to the effect that none of the provisions of the decree under consideration violate the Constitution, the President of the Republic either promulgates it or exercises his or her right of veto; exercise of the latter is by way of a substantiated message requesting re-examination of the text.

(2) If the Assembly of the Republic confirms its vote by an absolute majority of its members entitled to vote, the President of the Republic has to promulgate the instrument within eight days of its receipt.

(3) A two thirds' majority of the Members present, where that majority is larger than the absolute majority of the Members entitled to vote, nevertheless is required in order to confirm decrees that take the form of an organic law as well as decrees concerning the following matters:

- a) External relations;
- b) Borders between the public, the private and the cooperative and social sectors pertaining to the property of the means of production;
- c) Regulations on the elections for the European Parliament or on any other electoral acts provided for in the Constitution.

(4) Within forty days of having received any decree of the Government for the purpose of promulgation or of the date of publication of a ruling of the Constitutional

Court to the effect that none of the provisions of the decree under consideration violate the Constitution, the President of the Republic either promulgates it or exercises his or her right of veto; exercise of the latter is by way of written communication addressed to the Government and containing the reasons for the veto.

(5) The President of the Republic also exercises his right to veto under the conditions laid down in Articles [278 and 279](#).

#### **Article 140 Failure to Promulgate or Sign**

The failure of the President of the Republic to sign any of the measures mentioned in Article [137 \(b\)](#) makes them null and void.

#### **Article 141 Declaration of a State of Siege or Emergency**

(1) A state of siege or emergency may not be declared without previously consulting the Government and obtained authorization from the Assembly of the Republic or, when the latter is not in session and it is impossible to call it into session at once, from its Standing Committee.

(2) When authorized by the Standing Committee of the Assembly of the Republic, the declaration of a state of siege or emergency has to be ratified by the plenum as soon as it is possible for the latter to meet.

#### **Article 142 Powers of the President of the Republic *ad interim***

(1) The President of the Republic *ad interim* does not have the powers to perform any of the acts provided for in Articles [136 \(e\) and \(n\)](#) and [137 \(c\)](#).

(2) The President of the Republic *ad interim* can perform any of the acts provided for in Articles [136 \(b\), \(c\), \(t\), \(m\), and \(p\)](#), [137 \(a\)](#), and [138 \(a\)](#) only after having heard the Council of State.

#### **Article 143 Ministerial Counter-Signature**

(1) Acts of the President of the Republic performed under the provisions of Articles [136 \(h\), \(j\), \(l\), \(m\), and \(o\)](#), [137 \(b\), \(d\) and \(f\)](#), and [138 \(a\), \(b\) and \(c\)](#) must be countersigned by the Government.

(2) Absence of counter-signature makes the act null and void.

### **Chapter III Council of State**

#### **Article 144 Definition**

The Council of State is the political advisory body of the President of the Republic.

#### **Article 145 Membership**

The Council of State is presided over by the President of the Republic and comprises 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 Chairmen of the regional governments;
- f) The former presidents of the Republic elected under the Constitution and who were

not removed from office;

g) Five citizens appointed by the President of the Republic for the period corresponding to his term of office;

h) Five citizens elected by the Assembly of the Republic in accordance with the principle of proportional representation for the period corresponding to the duration of the legislative period.

#### **Article 146 Induction and Term of Office**

(1) The members of the Council of State are inducted by the President of the Republic.

(2) The Members of the Council of State mentioned in Article [145 \(a\) to \(e\)](#) perform their duties as long as they hold the respective offices.

(3) The members of the Council of State mentioned in Article [145 \(g\) and \(h\)](#) continue to perform their duties until the induction of those replacing them in the respective offices.

#### **Article 147 Organization and Functioning**

(1) It is the duty of the Council of State to draw up its own rules of procedure.

(2) The meetings of the Council of State are not public.

#### **Article 148 Powers**

The Council of State has the powers to:

a) State its opinion on the dissolution of the Assembly of the Republic and the organs of self-government of the autonomous regions;

b) State its opinion on the dismissal of the Government under the circumstances mentioned in Article [198 \(2\)](#);

c) State its opinion on the appointment and dismissal of the Ministers for the Republic for the autonomous regions;

d) State its opinion on declaration of war or the making of peace;

e) State its opinion on the acts of the President of the Republic *ad interim* mentioned in Article [142](#);

f) State its opinion on all other cases provided for in the Constitution and, in general, advise the President of the Republic on the exercise of his or her functions upon request of the latter.

#### **Article 149 Giving of Opinions**

The opinions of the Council of State mentioned in Article [148 \(a\) to \(e\)](#) are to be given at the meeting called for the purpose by the President of the Republic and made public at the time the acts they refer to are performed.

### **Section III Assembly of the Republic**

#### **Chapter I Status and Election**

##### **Article 150 Definition**

The Assembly of the Republic is the representative assembly of all Portuguese

citizens.

### **Article 151 Number of Members**

The Assembly of the Republic has at least 230 and at most 235 Members, in conformity with the electoral law.

### **Article 152 Constituencies**

(1) Members are elected by constituencies; the law lays down the geographical limits of the latter; it may provide for a single nation-wide constituency.

(2) The number of Members apportioned to each constituency are proportional to the number of voters enrolled in the electoral register of that constituency, save where a nation-wide constituency is provided for.

(3) Members represent the whole country, not the constituencies for which they were elected.

### **Article 153 Conditions for Standing for Election**

Portuguese citizens entitled to vote may stand for election, subject to the restrictions to be laid down by electoral law with regard to incompatible local functions or the holding of certain offices.

### **Article 154 Nominations**

(1) Nominations are presented as provided by law, by the political parties either separately or in combination. The lists may include citizens who are not members of the parties concerned.

(2) No one may stand for more than one electoral district or have his name in more than one list.

### **Article 155 System of Election**

(1) Members of the Assembly are elected by the system of proportional representation according to the Hondt highest average method.

(2) The conversion of votes cast into effective suffrages is not limited by law through any requirements as to a minimum national percentage of the votes.

### **Article 156 Beginning and End of Term of Office**

(1) The term of office of members starts with the first meeting of the Assembly of the Republic after an election and ends with the first meeting after the subsequent election, without prejudice to the suspension or individual cessation of mandates.

(2) The filling of Assembly seats that fall vacant and the temporary replacement of members, where good cause exists for doing so, is regulated by electoral law.

### **Article 157 Cases of Incompatibility**

(1) A member of the Assembly who is appointed a member of the Government may not exercise his mandate while the said appointment is in force. His place is temporarily filled as provided in the foregoing article.

(2) The law determines other cases of incompatibility.

### **Article 158 Performance of Members' Duties**

(1) Members are secured suitable conditions for performing efficiently their duties, in particular for the indispensable contact with voters.

(2) The circumstances under which the absence of Members from official acts or

activities unconnected with the Assembly, because of meetings of the Assembly or missions on its behalf, constitute a valid reason for the adjournment of such acts or activities, are laid down by law.

(3) Public entities have the duty, in accordance with the law, to cooperate with Members where the latter perform their duties.

### **Article 159 Prerogatives of Members**

Members have the following prerogatives:

- a) To table proposals for constitutional amendments;
- b) To table private members bills, motions for resolutions, and draft decisions;
- c) To put questions to the Government concerning any of the latter's acts or any act of the Public Administration and to receive answer within a reasonable delay, without prejudice to what the law lays down on the subject of State secrecy;
- d) To request and to obtain, from the Government or from the organs of any public body, such data, information, and publications as they may consider useful for the fulfillment of their mandates;
- e) To request the setting up of parliamentary committees of enquiry;
- f) Such prerogatives as are written down in the Rules of Procedure of the Assembly.

### **Article 160 Immunities**

(1) Members of the Assembly have no civil, criminal, or disciplinary liability for the votes they cast and the opinions they express in the performance of their duties.

(2) Members may not be detained or arrested without the Assembly's consent, except when taken in *flagrante delicto* for an offence punishable with a prison sentence of over three years.

(3) Where criminal proceedings are taken against a Member and the latter is formally charged or indicted, the Assembly decides whether or not he or she is suspended for the purpose of allowing the proceedings to carry on, except where the offence at stake is punishable with the sentence mentioned in the preceding paragraph.

### **Article 161 Rights and Privileges**

(1) Members of the Assembly may not, without the Assembly's authorization, act as jurymen, experts, or witnesses while the Assembly is in session.

(2) Members of the Assembly enjoy the following rights and privileges:

- a) Deferment of military service, civic service, or civil defence service;
- b) Free passage and the right to a special passport for their official journeys abroad;
- c) A special identity card;
- d) Allowances as laid down by law.

### **Article 162 Duties**

Members of the Assembly shall have the following duties:

- a) To attend plenary sittings of the Assembly and meetings of those committees to which they belong;
- b) To discharge their responsibilities in the Assembly and perform the functions to which they are appointed on proposals by their respective parliamentary groups;
- c) To take part in votes.

### **Article 163 Forfeiture and Renunciation of Mandates**

(1) A member of the Assembly forfeits his mandate if he:

- a) Becomes subject to any of the disabilities or incompatibilities provided by law;
  - b) Fails to take his seat in the Assembly or exceeds the number of absences provided for in the Rules of Procedure;
  - c) Joins a party other than one that presented him for election;
  - d) Is convicted by a court of participation in any organization with a fascist ideology.
- (2) A member of the Assembly may renounce his mandate by written declaration.

## Chapter II Powers

### Article 164 Political and Legislative Powers

The Assembly of the Republic shall have the following powers:

- a) To adopt amendments to the Constitution, in conformity with the provisions of Articles [284](#) and [289](#);
- b) To approve the political and administrative statutes of the autonomous regions;
- c) To approve the statute of the territory of Macao;
- d) To enact legislation on any subject except for those that the Constitution reserves to the Government;
- e) To authorize the Government to enact legislation;
- f) To authorize the regional legislative assemblies as provided in Article [229 \(b\)](#);
- g) To grant amnesties and general pardons;
- h) To adopt the laws concerning the major options for the plans and the Budget of the State;
- i) To authorize the Government to raise and grant loans and engage in other credit obtaining operations not involving the floating debt, to lay down the general conditions thereof and to fix the maximum level of consolidated security afforded each year by the Government for credit to the benefit of third parties;
- j) To approve international conventions on matters falling within its exclusive legislative powers, treaties involving Portugal's participation in international organizations, treaties of friendship, peace treaties, defence treaties, treaties rectifying frontiers, treaties concerning military matters, and any other treaties which the Government submits to it;
- k) To propose to the President of the Republic to submit any question of relevant national interest to a referendum;
- l) {...}
- m) To authorize the declaration of a state of siege or the declaration of a state of emergency and to confirm any such declaration;
- n) To authorize the President of the Republic to declare war and make peace;
- o) To carry out other duties entrusted to it by the Constitution and the law.

### Article 165 Supervisory Powers

The Assembly of the Republic has the following supervisory powers:

- a) To watch over observance of the Constitution and the laws and to scrutinise the acts of the Government and the Administration;
- b) To scrutinise the implementation of declarations of a state of siege or emergency;
- c) To scrutinise the decree-laws, except those issued in the exercise of the Government's exclusive legislative powers, and the regional legislative decrees provided for in Article [229 \(1\)\(b\)](#), for the purpose of refusal of ratification or amendment;

- d) To receive the accounts of the State and other public bodies indicated in the law; they shall be submitted not later than 31 December of the subsequent year, accompanied by the Court of Audit's report, if prepared, and any other information necessary for their being scrutinised;
- e) To scrutinise the annual progress report and the final implementation report concerning the plans.

### **Article 166 Powers With Respect to Other Organs**

With respect to other organs, the Assembly of the Republic has the following powers:

- a) To witness the introduction of the President of the Republic;
- b) To consent to the absence of the President of the Republic from the national territory;
- c) To bring proceedings against the President of the Republic for offences committed in the performance of the latter's duties and to decide on the suspension of members of the Government where the circumstances mentioned in Article [199](#) occur;
- d) To examine the program of the Government;
- e) To pass motions of confidence in and censure of the Government;
- f) To give an opinion on the dissolution of the organs of self-government of the autonomous regions;
- g) To elect according to the system of proportional representation five members of the Council of State, five members of the High Authority for the Mass Media, as well as the members of the Higher Council of the Public Prosecution that it is empowered to appoint;
- h) To elect by a two-thirds majority of the Members present where that majority is larger than the absolute majority of the Members entitled to vote, ten judges of the Constitutional Court, the Ombudsman, the president of the Economic and Social Council, seven members of the Higher Council of the Bench, as well as the members of other constitutional organs that it is empowered to appoint.

### **Article 167 Exclusive Legislative Powers**

The Assembly of the Republic has exclusive legislative powers with respect to the following matters:

- a) Election of persons to hold office in the organs of supreme authority;
- b) Referendum;
- c) Organization, functioning, and procedures of the Constitutional Court;
- d) Organization of the national defence, determination of the duties to which it gives rise, as well as general foundations of the organization, functioning, and discipline of the Armed Forces;
- e) State of siege and state of emergency;
- f) Acquisition, loss, and re-acquisition of Portuguese citizenship;
- g) Determination of the limits of territorial waters, of the exclusive economic zone, and of the rights of Portugal to the adjacent sea beds;
- h) Political parties and associations;
- i) Foundations of the educational system;
- j) Election of members of the organs of self-government of the autonomous regions and of the local authorities, as well as of the other constitutional organs and organs elected by way of direct and universal elections;
- l) Status of members of the organs of supreme authority and of local authorities, as well as of the other constitutional organs and organs elected by way of direct and universal elections;

- m) Giving military courts jurisdiction over deliberate offences that may be considered to amount to essentially military offences in accordance with the provisions of Article [215 \(2\)](#);
- n) Setting up, abolishing, and changing the territorial limits of local authorities;
- o) Direct consultation of the electorate at local level;
- p) Restriction on the exercise of rights by the permanent cadre of the military and the militarized personnel on active service.

### **Article 168 Relatively Reserved Legislative Powers**

(1) The Assembly of the Republic has exclusive legislative powers with respect to the following matters, save where the Government has been authorized to the same effect:

- a) The status and capacity of persons;
- b) Rights, freedoms, and safeguards;
- c) Definition of offences, sanctions, security measures and their grounds, as well as criminal procedure;
- d) General system governing the punishment of disciplinary offences and regulatory offences, as well as the procedure applicable;
- e) Rules governing requisition and expropriation for public purposes;
- f) Foundations of the social security system and the national health service;
- g) Foundation of the system for protection of the nature, the ecological balance, and the cultural heritage;
- h) Rules governing the lease of rural and urban property;
- i) Tax creation and the fiscal system;
- j) Determination of sectors with respect to the ownership of the means of production, including the basic sectors in which private businesses and other entities alike shall not operate;
- l) Ways and means of intervention with expropriation, nationalization, and privatization of the means of production and land for public purposes, as well as the criteria for determining compensation in such cases;
- m) Planning system and membership of the Economic and Social Council;
- n) Foundations of the agricultural policy, including the determination of the higher and lower limits for the size of the private farms;
- o) Monetary system and the standards for weights and measures;
- p) Rules governing the preparation and organization of the budgets of the State, the autonomous regions and the local authorities;
- q) Organization and powers of the courts, the Public Prosecutors and the non-judicial conflict solving entities, as well as status of judges and prosecutors;
- r) Rules governing intelligence services and State secrecy;
- s) Rules governing the local authorities, including their finances;
- t) Participation of neighborhood organizations in the exercise of local power;
- u) Public associations, individual safeguards against the Administration, and civil liability of the Administration;
- v) Foundations of the rules governing the civil service and sphere of the latter;
- x) Foundation of the rules governing state-owned enterprises;
- z) Determination of and rules governing property in the public domain;
- aa) Rules concerning the means of production that are part of the co-operative and social property sector.

(2) The laws granting authorization to legislate determine the subject, the guiding line, and the scope of the authorization, as well as its duration; the latter may be

extended.

(3) Authorizations to legislate may not be used more than once, but may be used in stages.

(4) Authorizations lapse when the Government to which they were granted ceases to hold office, when the legislative period ends or when the Assembly is dissolved.

(5) The provisions of this Article apply to the authorizations granted to the Government within the Budget act; authorizations concerning fiscal matters do not lapse until the end of the financial year to which they refer.

### **Article 169 Form of the Acts**

(1) The acts provided for in Article [164 \(a\)](#) take the form of constitutional laws.

(2) The acts provided for in Article [167 \(a\) to \(e\)](#) take the form of organic laws.

(3) The acts provided for in Article [164 \(b\) to \(i\) and \(m\)](#) take the form of laws.

(4) The acts provided for in Article [166 \(d\) and \(e\)](#) take the form of motions.

(5) The other acts of the Assembly of the Republic, as well as the acts of the Standing Committee that are provided for in Article [182 \(3\) \(e\) and \(f\)](#) take the form of resolutions.

(6) Resolutions are published irrespective of promulgation.

### **Article 170 Legislative and Referendum Initiative**

(1) Power to initiate legislation and to propose referenda lies with the Members, the parliamentary groups and the Government; with respect to the autonomous regions, power to initiate legislation lies with their respective regional legislative assemblies.

(2) The Members, the parliamentary groups, and the regional legislative assemblies may not table bills or move amendments involving in the financial year running any increase in State expenditure, or any reduction in State revenue, allowed in the Budget.

(3) The Members and the parliamentary groups may not propose referenda involving in the financial year running any increase in State expenditure, or any reduction in State revenue, allowed in the Budget.

(4) Bills and proposals for referenda, once rejected in a final way, cannot be reintroduced during the same legislative session, save where a new Assembly is elected.

(5) Bills and proposals for referenda not submitted to a vote during the legislative session in which they were tabled, need not be reintroduced during the following legislative session, save where the legislative period comes to an end.

(6) Bills tabled by the Government and Government proposals for referenda lapse with the resignation of the latter.

(7) Bills presented by the regional legislative assemblies lapse when their respective legislative periods come to an end; where, however, they had already at that time passed the first reading, they do not lapse before the end of the legislative period of the Assembly of the Republic.

(8) The parliamentary committees are entitled to submit alternative texts, without prejudice to the unwithdrawn original bills or proposals for referendum to which the former refer.

### **Article 171 Discussion and Voting**

(1) Discussion of bills include two readings.

(2) Voting includes voting on first reading, voting on second reading, and a final, global vote.

(3) Where the Assembly so decides, the texts approved on first reading is submitted to the committees for a vote on second reading, without prejudice to avocation by the Assembly and to the latter's final vote for global approval.

(4) The bills on matters provided for in Articles [167 \(a\) to \(f\), \(h\), \(n\) and \(o\)](#) and [168 \(1\)\(s\)](#) are voted on second reading by the plenary meeting of the Assembly.

(5) The organic laws can be approved in the final and global vote only by the absolute majority of the Members entitled to vote.

(6) The provisions governing in laws the matters mentioned in Articles [152 \(1\) and \(2\)](#) and [167 \(o\)](#) can be approved only by a two-thirds majority of the Members present where that majority is larger than the absolute majority of the Members entitled to vote.

#### **Article 172 Ratification of Decree-Laws**

(1) At the request of ten Members, decree-laws that were not approved in the exercise of the Government's exclusive legislative powers, are submitted to one of the first ten plenary meetings of the Assembly of the Republic following their publication, for the purpose of introducing amendments or refusing ratification.

(2) Once requested the discussion of a decree-law that was prepared in the exercise of legislative authorization, where proposals for amendment are tabled, the Assembly is entitled to stay its execution, wholly or partly, until publication of the law that will change it or until the proposals above-mentioned are rejected.

(3) The stay of execution lapses as soon as the Assembly has held ten plenary meetings without having taken a final decision on the ratification.

(4) Where ratification is refused, the decree-law ceases to be in force as from the date of the publication of the resolution in the *Diario da Republica*; it is not published again in the course of the same legislative session.

(5) Once requested, the discussion of a decree-law, if the Assembly has not taken a decision thereupon or, having decided to introduce amendments, has not voted a law to that effect, before the end of the on-going legislative session and after having held fifteen plenary meetings, the ratification procedure lapses.

#### **Article 173 Urgency Procedure**

(1) At the request of any Member, parliamentary group, or the Government, the Assembly of the Republic is entitled to give urgency to the procedure for passing any bill or motion for a resolution.

(2) At the request of the regional legislative assemblies of the Azores and Madeira, the Assembly is also entitled to give urgency to the procedure for passing any bill submitted by any of the latter.

### **Chapter III Organization and Working**

#### **Article 174 Legislative Period**

(1) Each legislative period has at last four legislative sessions.

(2) In the case of dissolution, the Assembly then elected starts a new legislative period, the length of which initially is increased by the time needed to complete the legislative session under way at the date of the election.

#### **Article 175 Dissolution**

(1) The Assembly of the Republic cannot be dissolved in the six months subsequent to its election, during the last half year of the term of office of the President of the Republic, or during a state of siege or emergency.

(2) In case of failure to observe the foregoing paragraph, the decree of dissolution is null and void.

(3) The dissolution of the Assembly does not affect the mandates of its members or the powers of the Standing Committee until the first sitting of the Assembly after subsequent election.

#### **Article 176 Sitting Following Election**

(1) The Assembly of the Republic meets as a matter of law on the third day after the final results of the election are known or, in the case of an election that takes place because of the end of a legislative period but is held on a day before the end of the said period, on the first day of the subsequent period.

(2) If that date falls outside the effective period of functioning of the Assembly, the latter meets to give effect to Article [178](#).

#### **Article 177 Legislative Session, Period of Functioning and Convening of the Assembly**

(1) The legislative session lasts for one year starting on 15 October.

(2) The normal period of functioning of the Assembly runs from 15 October to 15 June, without prejudice to any suspensions that the Assembly may decide by a two-thirds majority of the members present.

(3) Outside the period indicated in the foregoing paragraph, the Assembly may sit by a decision of the Plenum to extend the normal period of functioning, at the initiative of the Standing Committee, or, if this is impossible and in case of grave emergency, at the initiative of over half the members of the Assembly.

(4) Extraordinary sessions of the Assembly may be convened by the President of the Republic to deal with specific business.

(5) Where the Assembly so decides in accordance with the provisions of Paragraph (2), the committees are entitled to work irrespective of the work of the Plenum.

#### **Article 178 Internal Powers of the Assembly**

The Assembly of the Republic is competent to:

- a) Draw up and approve its Rules of Procedure in accordance with the Constitution;
- b) Elect by an absolute majority of the members entitled to vote its President and other officers, the four Vice-Presidents being elected at the proposal of the four largest parliamentary groups;
- c) Constitute the Standing Committee and other committees.

#### **Article 179 Agenda of the Plenary Meetings**

(1) The agenda is drawn up by the President of the Assembly of the Republic in accordance with the order of priorities laid down in the rules of procedure, without prejudice to the right of appeal to the Plenum of the Assembly and the President of the Republic's powers provided in Article [177\(4\)](#).

(2) The Government may request priority for matters of national interest requiring urgent settlement.

(3) All the parliamentary groups are entitled to draw up the Agenda of a certain number of meetings according to criteria to be laid down in the rules of procedure and with due respect for the position of minority parties and parties not represented in the

Government.

### **Article 180 Attendance by Members of the Government at Plenary Sittings**

(1) Ministers have the right to attend plenary sittings of the Assembly and may be assisted or replaced by Secretaries of State, both being entitled to speak, as provided in the Rules of Procedure.

(2) Sittings are fixed at which members of the Government have to be present to answer oral or written questions or requests for information by members of the Assembly. These sittings are held at the minimum intervals laid down in the Rules of Procedure and on dates to be fixed by agreement with the Government.

(3) The committees may request members of the Government to take part in their work.

### **Article 181 Committees**

(1) The Assembly of the Republic has the committees provided for in its Rules of Procedure and may establish committees of enquiry or committees for any other specific purpose.

(2) The composition of the committees corresponds to the representation of the parties in the Assembly of the Republic.

(3) Petitions addressed to the Assembly are examined by the committees or by an *ad hoc* committee which may seek the opinion of the committees that are competent in the field under consideration: in any event, the committees may require any citizen to give evidence before them.

(4) Without prejudice to their constitution in accordance with general rules, parliamentary committees of enquiry are compulsorily set up whenever so requested by one-fifth of the members of the Assembly entitled to vote, up to the limit of one per member and per legislative session.

(5) Parliamentary committees of enquiry have such powers of investigation as have the judicial authorities.

(6) The chairs of the committees in general are apportioned to the parliamentary groups proportionately to the number of their respective members.

### **Article 182 Standing Committee**

(1) The Assembly's Standing Committee functions when the Assembly is not in session, where it is dissolved, and in any other circumstances provided for in the Constitution.

(2) The Standing Committee is chaired by the President of the Assembly; its members are the Vice-Presidents of the Assembly and members appointed by all the parties proportionately to the number of their respective members.

(3) The Standing Committee has the following powers:

- a) To follow the activities of the Government and the administration;
- b) To use the powers of the Assembly concerning the term of office of members;
- c) To convene the Assembly where this is necessary;
- d) To prepare the opening of the Assembly's sessions;
- e) To authorize the President of the Republic to leave the national territory;
- f) To authorize the President of the Republic to declare the state of siege or emergency, to declare war, and to make peace.

### **Article 183 Parliamentary Groups**

(1) Members elected for the same party or the same alliance of parties are entitled to

set up a parliamentary group.

(2) Parliamentary groups have the following rights:

- a) To participate in the Assembly's committees proportionately to the number of its members and to nominate its representatives;
- b) To be heard with regard to the adoption of the agenda and to appeal to the Plenum against the agenda adopted;
- c) To initiate in each legislative session two discussions on matters of general or sectorial policy, by way of questioning the Government;
- d) To request the Standing Committee to have the Assembly convened;
- e) To request the setting up of parliamentary committees of enquiry;
- f) To initiate legislation;
- g) To submit motions for the rejection of the Government's program;
- h) To submit motions of censure on the Government;
- i) To be regularly and directly informed by the Government on the progress of the major matters of public interest.

(3) Each parliamentary group is entitled to a place of work at the seat of the Assembly and to technical and administrative staff in whom it has confidence, on conditions to be laid down by law.

#### **Article 184 Officials and Specialists Serving the Assembly**

The work of the Assembly and its committees is assisted by a permanent staff of technical and administrative officials and by specialists appointed or temporarily employed, in whatever numbers the President shall consider necessary.

### **Section IV Government**

#### **Chapter I Function and Structure**

##### **Article 185 Definition**

The Government is the organ for conduct of the country's general policy and the highest organ of public administration.

##### **Article 186 Composition**

- (1) The Government comprises the Prime Minister, the other Ministers, and the State Secretaries and Under-Secretaries.
- (2) The Government may include one or more Deputy Prime Ministers.
- (3) The number of Ministries and State Secretariats, their titles and powers, and the forms of coordination between them are laid down in the order appointing the holders of the respective offices or by legislative order, as the case may be.

##### **Article 187 Council of Ministers**

- (1) The Council of Ministers comprises the Prime Minister, the Deputy Prime Ministers, if any, and the other Ministers.
- (2) Councils of specialized ministers may be established by law for particular subjects.
- (3) The State Secretaries and Under-Secretaries may be called to meetings of the

Council of Ministers.

### **Article 188 Temporary Replacement of Members of the Government**

(1) If there is no Deputy Prime Minister, the Prime Minister's place is taken in his absence or inability to act by the Minister whom he designates to the President of the Republic or, in the absence of such designation, by the Minister whom the President of the Republic appoints for the purpose.

(2) Each Minister's place is taken in his absence or inability to act by the State Secretary whom he designates to the Prime Minister or, in the absence of such designation, by the member of the Government whom the Prime Minister appoints for the purpose.

### **Article 189 Commencement and Cessation of Functions**

(1) The Prime Minister commences office when he is inducted and he ceases to hold office when he is relieved of his post by the President of the Republic.

(2) Any other member of the Government commences office when he is inducted and ceases to hold office when he or the Prime Minister is relieved of his post.

(3) State Secretaries and Under-Secretaries also cease to hold office when their respective Minister is relieved of his post.

(4) In case of resignation of the Government, the Prime Minister of the outgoing Government is relieved of his post on the date of appointment and induction of the new Prime Minister.

(5) Before its program has been judged by the Assembly of the Republic or after its dismissal, the Government has to limit itself to those acts which are strictly necessary to ensure the management of public business.

## **Chapter II Formation and Responsibility**

### **Article 190 Formation**

(1) The Prime Minister is appointed by the President of the Republic after consultation with the parties represented in the Assembly of the Republic, due regard being given to the election results.

(2) The remaining members of the Government are appointed by the President of the Republic on the proposal of the Prime Minister.

### **Article 191 Program**

The Government's program sets forth the principal political orientations and measures to be adopted or to be proposed in the various fields of governmental activity.

### **Article 192 Collective Responsibility**

The members of the Government are bound by its program and by the decisions taken in the Council of Ministers.

### **Article 193 Responsibility of the Government**

The Government is responsible for its actions to the President of the Republic and the Assembly of the Republic.

#### **Article 194 Responsibility of Members of the Government**

(1) The Prime Minister is politically responsible to the President of the Republic and, in the context of the Government's political responsibility, to the Assembly of the Republic.

(2) The Deputy Prime Ministers and other Ministers are responsible to the Prime Minister and, in the context of the Government's political responsibility, to the Assembly of the Republic.

(3) Each State Secretary and Under-Secretary is responsible to the Prime Minister and to his own Minister.

#### **Article 195 Scrutiny of the Government's Program by the Assembly of the Republic**

(1) The Government's program has to be presented to the Assembly of the Republic for scrutiny, by means of a statement by the Prime Minister, within not more than ten days of his appointment.

(2) If the Assembly of the Republic is not in session, it is required to be convened for this purpose by its President.

(3) The debate may not exceed three days, and until it is closed, any parliamentary group may propose rejection of the program and the Government may request approval of a vote of confidence.

(4) Rejection of the Government's program requires an absolute majority of members of the Assembly entitled to vote.

#### **Article 196 Request for Vote of Confidence**

The Government may ask the Assembly of the Republic for a vote of confidence on a statement of general policy or on any matter of national interest.

#### **Article 197 Motions of Censure**

(1) The Assembly of the Republic may, at the initiative of one quarter of its members entitled to vote or at the initiative of any parliamentary group, pass motions of censure on the Government concerning the implementation of its program or any matter of national interest.

(2) A motion of censure is not considered until 48 hours after it has been tabled. The debate on it does not last more than three days.

(3) If a motion of censure is not approved, its signatories cannot table another such motion during the same legislative session.

#### **Article 198 Resignation of the Government**

(1) The Government has to resign when:

a) A new legislative period starts;

b) The President of the Republic accepts a resignation submitted by the Prime Minister;

c) The Prime Minister dies or becomes physically incapacitated in a lasting way;

d) Its program is rejected;

e) A motion of confidence is not approved;

f) A motion of censure is approved by an absolute majority of the Members of the Assembly entitled to vote.

(2) The President of the Republic may dismiss the Government only when this becomes necessary to secure the regular functioning of the democratic institutions and after the Council of State has been consulted.

### **Article 199 Criminal Liability of Members of the Government**

Where criminal proceedings are taken against a member of the Government and the latter is formally charged or indicted, except where the offence at stake is punishable with a prison sentence of over three years, the Assembly of the Republic decides whether or not he or she should be suspended for the purpose of allowing the proceedings to carry on.

## **Chapter III Powers**

### **Article 200 Political powers**

(1) In exercising its political functions, the Government has the following powers:

- a) To counter-sign the acts of the President of the Republic in conformity with the provisions of Article [143](#);
- b) To negotiate and agree on international conventions;
- c) To approve international conventions, the approval of which does not fall within the powers of the Assembly of the Republic, or which were not submitted to the latter;
- d) To submit bills and draft resolutions to the Assembly of the Republic;
- e) To propose to the President of the Republic to submit matters of relevant national interest to referendum, in conformity with the provisions of Article [118](#);
- f) To state its opinion on declarations of a state of siege or a state of emergency;
- g) To propose to the President of the Republic declarations of war and the making of peace;
- h) To submit the accounts of the State and of the other public bodies determined by law, to the Assembly of the Republic in conformity with the provisions of Article [165 \(d\)](#);
- i) To perform any other acts as provided for in the Constitution and the law.

(2) The Government's approval of treaties and international agreements takes the form of decrees.

### **Article 201 Legislative Powers**

(1) The Government has the following powers:

- a) To issue decree-laws on matters not reserved to the Assembly of the Republic;
- b) To issue decree-laws on matters relatively reserved to the Assembly of the Republic subject to its authorization;
- c) To issue decree-laws in application of laws laying down legal principles or bases.

(2) The Government has exclusive competence in matters concerning its own organization and working.

(3) The decree-laws provided for in Paragraph (1)(b) and (c) expressly mention the law granting legislative authorization or the law laying down bases under cover of which they are approved.

### **Article 202 Administrative Powers**

In the exercise of its administrative functions, the Government has the following powers:

- a) To prepare the plans on the basis of the laws concerning the major options in that respect, and to implement them;
- b) To implement the Budget of the State;

- c) To issue the regulations that are necessary for the proper enforcement of the laws;
- d) To be in charge of the departments and to manage the direct administrative activity of the State, both civil and military, to superintend the indirect administration and to watch over the autonomous administration;
- e) To perform all the acts required by law with respect to the functionaries and personnel of the State and of other public bodies corporate;
- f) To safeguard democratic legality;
- g) To perform all the acts and make all the arrangements that are necessary for the promotion of economic and social development and for the satisfaction of the needs of the community.

### **Article 203 Powers of the Council of Ministers**

- (1) The Council of Ministers has the following powers:
- a) To adopt the general guidelines of governmental policy and of its implementation;
  - b) To decide whether to seek votes of confidence in the Assembly of the Republic;
  - c) To approve bills and draft resolutions;
  - d) To approve decree-laws and to approve international conventions that are not submitted to the Assembly of the Republic;
  - e) To approve the plans;
  - f) To approve the Government acts that involve increases or decreases in public revenue or expenditure;
  - g) To decide upon other matters within the powers of the Government that are committed to it by law or that are submitted to it by the Prime Minister or any Minister.
- (2) Councils of specialized Ministers exercise the powers given to them by law or delegated by the Council of Ministers.

### **Article 204 Powers of the Members of the Government**

- (1) The Prime Minister has the following powers:
- a) To direct the Government's general policy, to coordinate and guide the action of all Ministers;
  - b) To direct the work of the Government and its general relations with the other organs of the State;
  - c) To inform the President of the Republic on matters concerning the way in which the internal and external policies of the country are being conducted;
  - d) To perform the other duties committed to him or her by the Constitution and the law.
- (2) Ministers have the following powers:
- a) To carry out the policies laid down for their offices;
  - b) To maintain relations of a general nature between the Government and the other organs of the State where their offices are concerned.
- (3) Decree-laws and other decrees of the Government are signed by the Prime Minister and the Ministers who are competent for the matter in question.

## **Section V The Courts**

### **Chapter I General Principles**

### **Article 205 Jurisdictional Function**

(1) The courts are the organs of supreme authority that have the power to administer justice in the name of the people.

(2) In administering justice, the courts safeguard the citizen's rights and legally protected interests, punish violations of the democratic legality, and settle public as well as private conflicts of interests.

(3) In exercising their duties, the courts are entitled to the assistance of the other authorities.

(4) The law may provide for non jurisdictional ways and means of settling conflicts.

### **Article 206 Independence**

The courts are independent and subject only to the law.

### **Article 207 Findings as to Unconstitutionality**

The courts may not apply unconstitutional provisions or principles to matters brought before them.

### **Article 208 Court Decisions**

(1) The decisions of the courts are based on the cases and stipulations contained in law.

(2) The decisions of the courts are binding on all public and private bodies and prevail over the decisions of all other authorities.

(3) The conditions of enforcement of the courts' decisions in relation to all other authorities, and the penalties for failure to enforce such decisions, are regulated by law

### **Article 209 Hearings Before the Courts**

Hearings before the courts are public, except when the competent court shows cause for deciding otherwise, in order to safeguard personal dignity and public morals or to ensure its own proper working.

### **Article 210 Juries, People's Participation, Assessors**

(1) Juries are made up of the judges of the plenary court and the jurymen; a jury is called to court, at the request of either the prosecution or the defence, for the trial of serious crimes, except terrorism.

(2) The law may provide for social magistrates to be called to court for hearings on industrial disputes, offences against public health, misdemeanors, and other matters involving the assessment of infringed social values.

(3) The law may also provide for technically qualified assessors to be called to participate in the hearings concerning specific matters.

## **Chapter II Organization of the Courts**

### **Article 211 Categories of Courts**

(1) There are the following categories of courts other than the Constitutional Court:

a) The Supreme Court of Justice and the courts of law of first instance and of second instance;

- b) The Supreme Administrative Court and other administrative and fiscal courts;
  - c) The Court of Audit;
  - d) The military courts.
- (2) There may be maritime courts and courts of arbitration.
- (3) The law determines the circumstances and the ways in which the courts mentioned in the foregoing paragraphs may function, separately or jointly, as courts to settle conflicts.
- (4) There are no courts with exclusive jurisdiction for trying certain categories of crimes; this provision does not affect any provision concerning the military courts.

#### **Article 212 Supreme Court of Justice and Courts of Law**

- (1) The Supreme Court of Justice is the highest court of law, without prejudice to the jurisdiction of the Constitutional Court.
- (2) The President of the Supreme Court of Justice is elected by the judges thereof.
- (3) The Courts of law of first instance are, as a rule, the district courts; the courts mentioned in Article [213 \(2\)](#) are placed on the same footing as the latter.
- (4) The courts of law of second instance are, as a rule, the courts of appeal.
- (5) The Supreme Court of Justice function as a court of first or second instance where the law so provides.

#### **Article 213 Powers and Specialization of the Courts of Law**

- (1) The courts of justice are the common courts for civil and criminal matters; they have jurisdiction over all matters not ascribed to other judicial systems.
- (2) There may be courts of law of first instance with specific jurisdiction as well as courts specializing in hearing certain matters.
- (3) The courts of appeal and Supreme Court of Justice may work in specialized chambers.

#### **Article 214 Administrative and Fiscal Courts**

- (1) The Supreme Administrative Court is the highest among the administrative and the fiscal courts, without prejudice to the jurisdiction of the Constitutional Court.
- (2) The President of the Supreme Administrative Court is elected by and among the judges thereof.
- (3) The administrative and fiscal courts have jurisdiction over cases and appeals aiming at settling conflicts that derive from administrative or fiscal legal relations.

#### **Article 215 Military Courts**

- (1) The military courts have jurisdiction to try essentially military offences.
- (2) Where good cause exists, the law may give military courts jurisdiction over deliberate offences that may be considered to amount to essentially military offences.
- (3) The law may give military courts the power to impose disciplinary measures.

#### **Article 216 Court of Audit**

- (1) The Court of Audit is the highest body entrusted with supervising the legality of public expenditure and with passing judgement on such accounts as required by law; it has *inter alia* the following powers:
- a) To give an opinion on the General Accounts of the State, including the accounts of the social security and of the autonomous regions;
  - b) To give effect to liability resulting from financial offences in conformity with the law;
  - c) To perform other duties conferred to it by law.

(2) The Court of Audit may carry out its duties in a decentralized way, through regional sections, in conformity with the law.

## **Chapter III Status of Judges**

### **Article 217 Judges of the Courts of Law**

- (1) The judges of the courts of law form a single body governed by a single statute.
- (2) The law determines the requirements and the rules for the selection of the judges of the courts of law of first instance.
- (3) The prevailing criterium in the selection of judges for the courts of law of second instance is the merit and the selection is carried out by way of competition based on the curricula of the judges of the courts of first instance.
- (4) Access to the Supreme Court of Justice is by way of competition based on the curricula and open to the judges of the courts of law, the public prosecutors, and other jurists of merit in accordance with the law.

### **Article 218 Safeguards and Cases of Incompatibility**

- (1) Judges are irremovable and may not be transferred, suspended, retired, or dismissed except as provided by law.
- (2) Judges are not liable for their decisions except as provided by law.
- (3) Practicing judges may not hold any other office, whether public or private, except unremunerated positions in teaching and scientific research in the legal field.
- (4) Practicing judges may not be detached to serve in functions unrelated to the activity of the courts unless authorized by the appropriate higher council.

### **Article 219 Appointment, Assignment, Transfer, Promotion**

- (1) The Higher Council of the Bench has the powers to appoint, assign, transfer, and promote the judges of the courts of law; it also has the powers to exercise disciplinary action against the latter. Such powers must be used in conformity with the law.
- (2) The appropriate higher councils have the powers to appoint, assign, transfer, and promote the judges of the administrative and fiscal courts; they also have the powers to exercise disciplinary action against the latter. Such powers must be used in conformity with the law.
- (3) The powers to appoint, assign, transfer, and promote the judges of the other courts, as well as the powers to exercise disciplinary action against them, are regulated by law with the safeguards provided in the Constitution.

### **Article 220 Higher Council of the Bench**

- (1) The Higher Council of the Bench are presided over by the President of the Supreme Court of Justice; its membership is as follows:
  - a) Two members appointed by the President of the Republic, one of which is to be a judge;
  - b) Seven members elected by the Assembly of the Republic;
  - c) Seven judges elected by their peers in accordance with the principle of proportional representation.
- (2) The rules concerning the safeguards of judges apply to all the members of the Higher Council of the Bench.
- (3) The law may provide for the participation of clerks of justice elected by their peers

in the Higher Council of the Bench for the exclusive purposes of discussing and voting questions pertaining to the assessment of their professional merits and the exercise of disciplinary action with respect to their class.

## **Chapter IV Public Prosecutors**

### **Article 221 Functions and Status**

- (1) Public Prosecutors, as a whole, have the powers to represent the State, take criminal proceedings, defend democratic legality, and defend such interests as are indicated by law.
- (2) Public Prosecutors, as a whole, have an independent and autonomous status in conformity with the law.
- (3) Public Prosecutors are responsible magistrates, hierarchically graded, and cannot be transferred, suspended, retired, or dismissed except as provided by law.
- (4) The Attorney-General has the power to appoint, assign, transfer, and promote the Public Prosecutors; he also has the power to exercise disciplinary action against the latter.

### **Article 222 Attorney-General**

- (1) The Attorney-General is the highest authority in public prosecution; the law determines membership and power of the Attorney-General's Office.
- (2) The Attorney-General presides over the Attorney-General's Office which includes the Higher Council of the Public Prosecution: the latter includes members elected by the Assembly of the Republic and members elected among them by the Public Prosecutors.

## **Section VI Constitutional Court**

### **Article 223 Definition**

The Constitutional Court is the court that has specific powers to administer justice in matters of both legal and constitutional nature.

### **Article 224 Membership and Status of the Judges**

- (1) The Constitutional Court is made up of thirteen judges, of which ten are appointed by the Assembly of the Republic and the remaining three are co-opted.
- (2) Among both the members appointed by the Assembly of the Republic and the members co-opted, six are chosen among the judges of other courts; the remaining members must be jurists.
- (3) The term of office of the persons appointed to sit in the Constitutional Court is six years.
- (4) The President of Constitutional Court is elected by the judges that sit therein.
- (5) The judges that sit in the Constitutional Court enjoy such safeguards with respect to their being independent, irremovable, impartial, and not responsible, and be subject to such incompatibilities, as judges in the other courts enjoy and are subject to.
- (6) The law lays down the other rules concerning the status of the judges of the

Constitutional Court.

### **Article 225 Jurisdiction**

(1) The Constitutional Court has jurisdiction to assess conformity with the Constitution and the law as provided in Article [277](#) and subsequent Articles.

(2) The Constitutional Court also has jurisdiction as follows:

a) To ascertain the death and pass judgement on the permanent physical inability of the President of the Republic, as well as to ascertain that the latter is temporarily prevented from exercising his or her functions;

b) To ascertain the forfeiture of office of the President of the Republic in the circumstances mentioned in Articles [132 \(3\)](#) and [133 \(3\)](#);

c) To pass judgement in last instance on the regularity and the validity of the acts of the electoral procedure, in conformity with the law;

d) To ascertain the death and pass judgement on the incapacity for the exercise of the presidential functions, of any candidate for the function of President of the Republic, for the purposes provided in Article [127 \(3\)](#);

e) To pass judgement on the legality of the constitution of political parties and their alliances, of their names, monograms, and symbols, as well as to order their dismemberment, in conformity with the Constitution and the law;

f) To pass judgement on the conformity with the Constitution of referenda and direct consultation of the electorate at local level, prior to any of them being held.

(3) The Constitutional Court also exercises the other functions committed to it by the Constitution and the law

### **Article 226 Organization and Functioning**

(1) The law lays down the rules concerning the seat, the organization, and the functioning of the Constitutional Court.

(2) The law lays down the rules concerning the work of the Constitutional Court divided in non-specialized chambers for the purpose of supervising *in concreto* the conformity with the Constitution and the law or for the purpose of the exercise of other powers conferred to it by law.

(3) The law lays down the rules concerning the appeals for the plenary sitting of the Constitutional Court against contradictory decisions of the chambers within the scope of application of the same provision.

## **Section VII Autonomous Regions**

### **Article 227 Political and Administrative Status of the Azores and Madeira**

(1) The special political and administrative arrangements for the archipelagos of the Azores and Madeira are based on their geographical, economic, and social and cultural characteristics and on the historic aspirations of the peoples of the islands to autonomy.

(2) The autonomy of the regions serves the interests of democratic participation by their citizens, their economic and social development, the promotion and defence of regional interests, and the strengthening of national unity and of the bonds of solidarity among all the Portuguese.

(3) The political and administrative autonomy of the regions in no way affects the State's full sovereignty and is exercised within the limits of the Constitution.

## **Article 228 Statutes**

- (1) Drafts of political and administrative statutes of the autonomous regions are prepared by the regional legislative assemblies and submitted to the Assembly of the Republic for discussion and approval.
- (2) Where the Assembly of the Republic rejects or introduces amendments to the draft, it returns the latter to the regional legislative assembly concerned for consideration and opinion.
- (3) The Assembly of the Republic discusses the draft and takes a final decision thereupon as soon as that opinion is given.
- (4) The rules provided in the preceding paragraphs apply to the procedure for the amendment to the statutes.

## **Article 229 Powers of the Autonomous Regions**

- (1) The autonomous regions are corporate bodies in public law and have the following powers which are further defined in their statutes:
  - a) in observance of the Constitution and the general laws of the Republic, to legislate on such matters of specific interest to the regions as are not within the exclusive powers of the organs of supreme authority;
  - b) Authorized by the Assembly of the Republic and in observance of the Constitution, to legislate on such matters of specific interest to the regions as are not within the exclusive powers of the organs of supreme authority;
  - c) To enact enabling legislation with reference to basic laws that do not concern matters falling within the exclusive powers of the Assembly of the Republic and to the basic laws mentioned in Article [168 \(1\) \(f\), \(g\), \(n\), \(v\) and \(x\)](#);
  - d) To regulate the implementation of regional legislation and of general laws adopted by the organs of supreme authority that do not reserve for the latter the power to regulate them;
  - e) To exercise the right of initiative with respect to their statute, in conformity with the provisions of Article [228](#);
  - f) To exercise the right of legislative initiative, in conformity with the provisions of Article [170 \(1\)](#), by way of submitting to the Assembly of the Republic bills and motions for amendment;
  - g) To exercise the executive powers that belong to them;
  - h) To administer and dispose of their assets and to perform acts and conclude contracts where it is their interest to do so;
  - i) To exercise the powers of taxation that belong to them, in conformity with the law, to dispose of the revenue so obtained and of other revenue assigned to them and to allocate that revenue to their expenses; to adapt the national fiscal system to regional specifics, in conformity with the provisions of the framework law of the Assembly of the Republic;
  - j) To set up and abolish local authorities and to modify their area, in conformity with the law;
  - l) To supervise local powers;
  - m) To raise localities to the category of towns or cities;
  - n) To supervise departments, public institutes, state owned and nationalized businesses whose activities are exclusively or predominantly confined to the region, as well as in other circumstances where warranted by the regional interests;
  - o) To approve the regional economic plan, the regional budget and the accounts of the region, as well as to participate in the preparation of the national plans;

- p) To create regulatory offences and the corresponding sanctions, without prejudice of the provisions of Article [168 \(1\)\(d\)](#);
- q) To participate in the definition and implementation of the fiscal, monetary, financial, and foreign exchange policies in such a way as to secure regional control of the means of payment in circulation and to provide funds for the investments necessary for their economic and social development;
- r) To participate in the definition of policies concerning the territorial waters, the exclusive economic zone and the adjacent sea beds;
- s) To participate in the negotiations concerning international treaties and agreements of direct concern to them and to share in any benefit derived therefrom;
- t) To engage in co-operation with other foreign regional entities and to participate in organizations aimed at furthering inter-regional dialogue and cooperation in accordance with the guidelines adopted by the organs of supreme authority competent in the field of foreign policy;
- u) To state their opinion, at their own initiative or when consulted by the organs of supreme authority, on questions within the competence of the latter and of concern to the regions.

(2) Proposals for authorizations to legislate have to be accompanied by the preliminary draft of the regional legislative decree sought; the provisions of Article [168 \(2\) and \(3\)](#) apply to the corresponding authorizing laws.

(3) The authorizations mentioned in the preceding paragraph lapse at the end of the legislative period or with dissolution of either the Assembly of the Republic or the regional legislative assembly to which they were granted.

(4) The regional legislative decrees mentioned in Paragraph (1)(b) and (c) must expressly mention their respective authorizing laws or basic laws; the provisions of Article [172](#), where necessary adapted, apply to them.

### **Article 230 Limits to Powers**

The autonomous regions shall not:

- a) Restrict the rights of workers as recognized by law;
- b) Impose restrictions on the passage of persons and goods between them and the rest of the national territory, except restrictions on goods dictated by health requirements;
- c) Restrict any occupation or public office to persons born or resident in the region.

### **Article 231 Cooperation Between the Organs of Supreme Authority and the Regional Organs**

(1) The organs of supreme authority, in cooperation with the organs of regional government, have to ensure the economic and social development of the autonomous regions, and seek in particular to correct inequalities caused by their insular situation.

(2) The organs of supreme authority must always consult the organs of regional government on those questions within their powers which concern the autonomous regions.

### **Article 232 Representation of the Sovereignty of the Republic**

(1) The sovereignty of the Republic is especially represented in each autonomous region by a Minister for the Republic; the latter being appointed and dismissed by the President of the Republic on the proposal of the Government and once the Council of State having been heard.

(2) The Minister of the Republic has the powers to coordinate the work of the central departments of the State in so far as it effects the interests of the region; for that purpose, he or she has ministerial powers and a seat in the meetings of the Council of Ministers that deal with matters of interest to the region concerned.

(3) The Minister of the Republic superintends the administrative functions performed by the State in the region and coordinates them with those performed by the region itself.

(4) In the Minister for the Republic's absence or inability to act, he or she is replaced in the region by the president of the regional legislative assembly.

### **Article 233 Organs of Self-Government of the Regions**

(1) The organs of self-government of each region are the Regional Legislative Assembly and the Regional Government.

(2) The regional legislative assembly is elected by way of universal, direct, and secret suffrage in accordance with the principle of proportional representation.

(3) The regional government is politically responsible to the regional legislative assembly; its president is appointed by the Minister for the Republic with due regard to the results of the elections.

(4) The other members of the regional government are appointed and dismissed by the Minister for the Republic, upon proposal of the president of that government.

(5) The status of the members of the organs of self-government of the autonomous regions are laid down in the political and administrative statutes of the latter.

### **Article 234 Powers of the Regional Legislative Assembly**

(1) The regional legislative assembly has exclusive competence with respect to the exercise of the powers mentioned in Article [229 \(1\), \(a\), \(b\), \(c\), \(d\) second part, \(f\), \(i\), \(j\) first part, \(m\), and \(p\)](#), with respect to the approval of the regional budget, the economic plan, and the accounts of the region, as well as with respect to adapting the national fiscal system to the specificities of the region.

(2) The regional legislative assembly has the powers to prepare and adopt its rules of procedure, in conformity with the Constitution and the political and administrative statute of the region concerned.

(3) The provisions of Article [178 \(c\), 181 \(1\), \(2\) and \(3\), 182 \(1\), \(2\) and \(3\) \(a\), \(b\), \(c\) and \(d\)](#) and [183 \(1\), \(2\) \(a\), \(c\), \(d\), \(e\), \(f\), \(g\), \(h\) and \(i\)](#) apply *mutatis mutandis* to the regional legislative assembly and its parliamentary groups.

### **Article 235 Signature and Veto of the Minister of the Republic**

(1) The Minister for the Republic has the power to sign and order publication of the regional legislative decrees and the regional regulatory decrees.

(2) Within fifteen days of having received for the purpose of signature any decree of the regional legislative assembly or of the publication of a Constitutional Court ruling to the effect that the provisions of such a decree are not in violation of the Constitution, the Minister for the Republic either signs the decree, or exercises his or her veto power by way of a substantiated request for reconsideration of the text.

(3) Where the regional legislative assembly has confirmed its vote by an absolute majority of the members entitled to vote, the Minister for the Republic has to sign the decree within eight days of having received it.

(4) Within twenty days of having received for the purpose of signature any decree of the regional government, the Minister for the Republic either signs the decree or refuse to sign it; in the latter case the Minister for the Republic has to provide the

regional government with written reasons for the refusal; the regional government may then convert the decree into a bill to be presented to the regional legislative assembly.

(5) The Minister for the Republic also exercises his or her veto powers in conformity with the provisions of Articles [278](#) and [279](#).

### **Article 236 Dissolution of the Regional Organs**

(1) The President of the Republic, having heard the Assembly of the Republic and the Council of State, is empowered to dissolve the self-government organs of the autonomous regions for reasons pertaining to their performing acts contrary to the Constitution.

(2) Should the regional organs be dissolved, the government of the region is secured by the Minister of the Republic.

## **Section VIII Local Authorities**

### **Chapter I General Principles**

#### **Article 237 Local Authorities**

(1) The democratic organization of the State includes local authorities.

(2) Local authorities are territorial bodies corporate with representative organs serving the particular interests of the local population.

#### **Article 238 Categories of Local Authorities and Administrative Division**

(1) The local authorities on the mainland are the parishes, municipal authorities, and administrative regions.

(2) The autonomous regions of the Azores and Madeiracomprise parishes and municipal authorities.

(3) In large metropolitan areas, other organizational forms of territory self-government may be established by law in accordance with special local conditions.

(4) The administrative divisions of the national territory are established by law.

#### **Article 239 Functions and Organizations of Local Authorities**

The functions and organizations of local authorities and the powers of their organs are regulated by law in accordance with the principle of administrative decentralization.

#### **Article 240 Local assets and Finance**

(1) The local authorities have their own assets and financial resources.

(2) The system of local finance is established by law and aims at the fair apportionment of public funds by the State and local authorities and at the necessary correction of inequalities between local authorities on the same level.

(3) Local authorities' own receipts in all cases have to include the income from management of their assets and the amounts collected for use of their services.

#### **Article 241 Deliberating and Executive Organs**

- (1) The organization of each local authority includes an elected assembly with powers of decision and a corporate executive organ responsible to it.
- (2) The assembly is elected by direct and secret universal suffrage of the resident citizens according to the system of proportional representation.
- (3) The organs of the local authorities may carry out direct consultations of the voters enrolled in their area, by secret vote, on questions covered by their exclusive competence, in the cases, under the conditions, and with the force that the law determines.

#### **Article 242 Power to Regulate**

The local authorities have their own powers to issue regulations, within the limits of the Constitution, the laws, and the regulations of higher local authorities or authorities with powers of oversight.

#### **Article 243 Administrative Oversight**

- (1) The Administrative oversight of local authorities consists in verifying whether the law is complied with by the organs of the said authorities and it is exercised in the cases and in the ways laid down by law.
- (2) Supervisory measures restrictive of local autonomy require the prior opinion of a local authority organ to be determined by law.
- (3) The dissolution of local authority organs resulting from direct elections is caused only by serious illegal deeds and acts of omission.

#### **Article 244 Staff of the Local Authorities**

- (1) The local authorities have their own staffs in accordance with the law.
- (2) The system governing officials and employees of the State is applicable to officials and employees of the local administration.
- (3) The law determines the ways in which the State gives technical support and support in the form of human means to the local authorities, without prejudice to their autonomy.

## **Chapter II Parishes**

#### **Article 245 Organs of the Parish**

The representative organs of the parish are the parish assembly and the parish committee.

#### **Article 246 Parish Assembly**

- (1) The parish assembly is elected by the citizens entitled to vote who are resident within the parish.
- (2) In addition to the political parties, other groups of citizens entitled to vote may put forward candidates for election to the parish organs, on conditions laid down by law.
- (3) Provision may be made by law for the parish assembly to be replaced in parishes with a small population by meetings of all the citizens entitled to vote.

#### **Article 247 Parish Committee**

- (1) The parish committee is the executive organ of the parish. It is elected by the assembly in secret ballot from among its members.

(2) The chairman of the committee has to be the citizen who heads the list that received the most votes in the election to the assembly or, where no assembly exists, the citizen elected for the purpose by the plenary meeting.

#### **Article 248 Delegation of Duties**

The parish assembly is empowered to delegate administrative duties not involving the exercise of authority to neighborhood organizations.

### **Chapter III Municipalities**

#### **Article 249 Changes to municipalities**

The establishment or abolishment of municipalities and changes to their area are carried out by law after consulting the organs of the local authorities concerned.

#### **Article 250 Municipal Organs**

The representative organs of the municipal authority are the municipal assembly and the municipal chamber.

#### **Article 251 Municipal Assembly**

The municipal assembly comprises the chairmen of the parish councils and at least an equal number of members elected by the votes in the municipal area.

#### **Article 252 Municipal Chamber**

The municipal chamber is the corporate executive organ of the municipal authority. It is elected by the citizens entitled to vote who are resident in its area. The chairman is the candidate who heads the list that received the most votes.

#### **Article 253 Association and Federation**

The municipal authorities are empowered to form associations and federations for the purpose of the administration of common interests.

#### **Article 254 Share in the Revenue From Direct Taxation**

Municipal authorities share, on their own right and in conformity with the law, in the revenue from direct taxation.

### **Chapter IV Administrative Regions**

#### **Article 255 Establishment by the Law**

The administrative regions are simultaneously established by the law; the latter lays down their powers, membership, attributions, and the working methods of its organs, where appropriate with differences from one to the other.

#### **Article 256 Establishment *In Concreto***

Each administrative region is set up by law; this law is subordinated to the law provided for in the preceding Article and depends on a favorable vote of the majority of the municipal assemblies representing the larger portion of the regional area's

population.

#### **Article 257 Duties**

The administrative regions are conferred *inter alia* the duty to guide the public services and the task of coordinating and supporting the municipal action, whilst respecting the municipal autonomy and without limiting the municipal powers.

#### **Article 258 Plans**

The administrative regions prepares regional plans and participates in the preparation of the plans provided for in Article [92](#).

#### **Article 259 Organs of the Region**

The region's representative organs are the regional assembly and the regional committee.

#### **Article 260 Regional Assembly**

The regional assembly is made up of members directly elected by the citizens enrolled in the electoral register of the area of the region and members elected according to the system of proportional representation and the Hondt highest average method by an electoral college in which the directly elected members of the municipal assemblies of that area participate; the first mentioned members outnumber the last mentioned.

#### **Article 261 Regional Committee**

The regional committee is the executive collective organ of the region and is elected in a secret ballot by the regional assembly, among the latter's members.

#### **Article 262 Government's Representative**

Attached to each region is a representative of the Government appointed by the Council of Ministers; he or she also exercises powers with respect to the other local authorities in the area of the region.

### **Chapter V Neighborhood Organizations**

#### **Article 263 Establishment and Area**

(1) With a view to intensifying the participation of the population in local administrative life, there may be set up neighborhood organizations among persons residing in an area smaller than the parish.

(2) On its own initiative or at the request of committees of neighbors or a significant number of neighbors, the parish assembly limits the territorial areas of the organizations mentioned in the preceding paragraph and, where appropriate, settles the conflicts arising therefrom.

#### **Article 264 Structure**

(1) The structure of neighborhood organizations is laid down by law and include an assembly of neighbors and a committee of neighbors.

(2) The assembly of neighbors is made up of the persons residing in the area that are enrolled in the electoral register of the parish.

(3) The committee of neighbors is elected in a secret ballot by the assembly of neighbors and freely destituted by the latter.

#### **Article 265 Rights and Powers**

(1) The neighborhood organizations enjoys the following rights:

a) Of petition before the local authorities with respect to administrative matters of concern to the neighbors, and

b) Of participation in the parish assembly through their representatives, the latter not being entitled to vote.

(2) The neighborhood organizations have the powers to perform the tasks conferred upon them by law or delegated to them by the organs of the concerned parish.

### **Section IX Public Administration**

#### **Article 266 Fundamental Principles**

(1) Public administrative authorities seeks to promote the public interest, while observing those rights and interests of citizens that are protected by law.

(2) The organs and staff of the administrative authorities are subject to the Constitution and the law and exercise their functions in such a way as to respect the principles of equality, proportionality, fairness, and impartiality.

#### **Article 267 Structure of the Administration**

(1) Public administrative authorities are structured in such a way as to avoid bureaucracy, to bring the administration closer to the population, and to ensure participation by those concerned in its actual running, in particular through public associations, neighborhood organizations, and other forms of democratic representation.

(2) For the purposes of the foregoing paragraph, suitable forms of administrative decentralization and devolution are established by law, without prejudice to the efficiency and unity of action that are necessary or to take the Government's powers to direct and supervise.

(3) Public associations may be formed only to meet specific needs. They do not have the functions peculiar to trade union associations and their internal organization is based on respect for the rights of their members and on the democratic formation of their organs.

(4) Administrative procedures are dealt with in a special law, which ensures rationalization of the methods to be used by departments and participation by the citizens in the decision-making process or in deliberations which concern them.

#### **Article 268 Rights and Safeguards of the Citizens**

(1) Citizens are entitled to be informed by public administrative authorities, whenever they so require, on the progress of proceedings in which they are directly concerned and to have knowledge of final decisions taken with regard to them.

(2) Citizens also enjoy the right of access to the administrative archives and files, without prejudice to the legal provisions concerning the internal and external security, criminal investigation, and personal privacy.

(3) Administrative acts are notified to the interested parties in the way provided for by law; they are substantiated whenever they affect the legally protected rights or

interests of citizens.

(4) Interested parties are entitled to judicial appeal on grounds of illegality against any administrative act affecting their legally protected rights or interests, irrespective of the latter's form.

(5) Access to the administrative justice is also always guaranteed to citizens for the purpose of safeguarding their legally protected rights and interests.

(6) For the purposes set out in Paragraphs (1) and (2), the law provides a delay for the Administration's reply.

### **Article 269 Civil Service**

(1) While exercising their functions, the workers of public administrative authorities and other personnel of the State and other public bodies exclusively serve the public interest, as it is defined, in accordance with law, by competent organs of administration.

(2) The workers of public administrative authorities and other personnel of the State and other public bodies may not suffer damage or receive benefit as a result of the exercise of any political rights provided for in the Constitution, in particular because of party allegiance.

(3) In disciplinary proceedings, the right of the individual concerned to be heard and to defend himself is secured.

(4) No one may hold more than one public post or office except in cases expressly provided for by law.

(5) Cases of incompatibility between the holding of a public post or office and other activities are laid down by law.

### **Article 270 Restrictions on the Exercise of Rights**

The law may lay down restrictions on the rights of expression, meeting, demonstration, association, collective petition, and on the electoral capacity of the permanent cadres of the military and security forces on active duty as strictly required by their peculiar functions.

### **Article 271 Liability of Officials and Personnel**

(1) Officials and personnel of the State and other public bodies are responsible on civil, criminal, and disciplinary grounds for actions and omissions performed in the exercise and because of their functions which result in infringements of the legally protected rights or interests of the citizens; taking action or proceedings thereupon is not subject at any stage to approval by a higher authority.

(2) An official or member of the personnel who acts in accordance with orders or instructions on a service matter from his legitimate superior cannot be held liable, provided that he previously requested or required that they should be given or confirmed in writing.

(3) The duty of obedience ceases whenever the carrying out of orders or instructions involves committing some criminal offence.

(4) The conditions on which the State and other public bodies are entitled to recover the amount of indemnities previously paid by them from officials and their personnel are regulated by law.

### **Article 272 Police**

(1) The police has the functions of defending democratic legality and the rights of citizens.

(2) The police measures are provided for by law and may not be used beyond what is strictly necessary.

(3) The prevention of crimes, including crimes against the security of the State, is performed with due regard to the general rules governing the police and to the rights, freedoms, and safeguards of citizens.

(4) The law determines the system governing the security forces, each of which has a single organization for the whole national territory.

## **Section X National Defence**

### **Article 273 National Defence**

(1) The State has the obligation of ensuring national defence.

(2) The aims of the national defence are to ensure the national independence, the integrity of the territory, and the freedom and security of the population against any external aggression or menace, while respecting the constitutional order, the democratic institutions, and international conventions.

### **Article 274 Higher Council of National Defence**

(1) The Higher Council of National Defence is presided over by the President of the Republic and its membership is determined by law.

(2) The Higher Council of National Defence is the specific advisory body for questions concerning national defence and the organization, functioning, and discipline of the Armed Forces and it has the administrative competence that may be granted to it by law.

### **Article 275 Armed Forces**

(1) The Armed Forces secure the military defence of the Republic.

(2) The Armed Forces are exclusively composed of Portuguese citizens and their organization is based on compulsory military service and is a single one for the whole national territory.

(3) The Armed Forces obey the competent organs of supreme authority in accordance with the Constitution and the law.

(4) The Armed Forces are at the service of the Portuguese people. They are strictly non-partisan and their members may not take advantage of their weapons, posts, or functions for any political intervention.

(5) The Armed Forces may cooperate in the accomplishment of tasks connected with the satisfaction of basic needs and the improvement of the quality of life of the population, including situations of public calamity not justifying the suspension of the exercise of rights.

(6) Legislation that makes provision for the state of siege and the state of emergency determines the conditions under which the Armed Forces may be used in those circumstances.

### **Article 276 Defence of the Country, Military, and Civic Service**

(1) The defence of the country is a fundamental right and a fundamental duty of every Portuguese.

(2) Military service is compulsory, for a period and on conditions laid down by law.

(3) Persons considered unfit for armed military service perform unarmed military

service or civic service suited to their situations.

(4) Conscientious objectors perform civic service of a length and difficulty equivalent to that of armed military service.

(5) Civic service may be established as a substitute for or as a complement to military service and may be made compulsory by law for citizens not subject to military service.

(6) No citizen may keep or obtain any office in the State or in any other public body if he fails to perform his military service or civic service, if compulsory.

(7) Performance by a citizen of military service or compulsory civic service is without prejudice to his social security benefits or permanent career.

## **Part IV Safeguards and Revision of the Constitution**

### **Section I Supervision of the Constitutionality**

#### **Article 277 Active Unconstitutionality**

(1) Provisions of law that infringe a provision of the Constitution or the principles laid down therein are unconstitutional.

(2) The organic or formal unconstitutionality of international treaties that have been regularly ratified do not prevent the application of their provisions in Portuguese law as long as the provisions are applied in the law of the other party, except if the said unconstitutionality results from the violation of a fundamental principle.

#### **Article 278 Preventive Scrutiny of Constitutionality**

(1) The President of the Republic may request the Constitutional Court to judge preventively the constitutionality of any provision of any international treaty that has been submitted to him for ratification, an act sent to him for promulgation as a law or decree-law or an international agreement the act of approval of which has been sent to him for signature.

(2) The Ministers of the Republic may also request the Constitutional Court to judge preventively the constitutionality of any provision of a regional legislative decree or a decree implementing general law of the Republic that has been sent to them for signature.

(3) Preventive assessment of constitutionality has to be requested not later than eight days after the date in which the text was received.

(4) The President of the Republic, the Prime Minister, as well as one-fifth of the Members of the Assembly of the Republic in active duty are entitled to request the Constitutional Court to assess preventively the conformity with the Constitution, of any provision of any decree submitted to the former for the purpose of being promulgated as an organic law.

(5) When submitting to the President of the Republic a decree that should be promulgated as an organic law, the President of the Assembly of the Republic must, on the same day, inform the Prime Minister and the parliamentary groups of the Assembly of the Republic.

(6) Preventive assessment of the constitutionality as provided for in Paragraph (4) has to be requested within eight days from the date mentioned in the preceding

paragraph.

(7) Without prejudice to the provisions of Paragraph (1), the President of the Republic may not promulgate the decrees mentioned in Paragraph (4) either before eight days having elapsed since the date of their reception or before the Constitutional Court, if requested, has ruled.

(8) The Constitutional Court hands down its ruling within twenty-five days: this time limit may be shortened by the President of the Republic for urgent reasons, where Paragraph (1) applies

### **Article 279 Effects of Decisions**

(1) If the Constitutional Court rules that a provision of any act or international agreement is unconstitutional, the instrument is vetoed by the President of the Republic or the Minister of the Republic, depending on the case, and sent back to the organ that approved it.

(2) Under the circumstances provided for in the preceding paragraph, the decree may not be signed nor promulgated unless the organ that approved it has expurgated the provision judged unconstitutional or, where appropriate, has confirmed it by a two-thirds majority of the Members of the Assembly of the Republic present, where that majority is larger than the absolute majority of the Members entitled to vote.

(3) If the instrument is reformulated, the President of the Republic or the Minister of the Republic, depending on the case, may request the preventive judgement of the constitutionality of any of its provisions.

(4) Where the Constitutional Court rules to the effect that a provision of a treaty is unconstitutional, that treaty is ratified only if the Assembly of the Republic approves it by a two-thirds majority of the Members present, where that majority is larger than the absolute majority of the Members entitled to vote.

### **Article 280 Supervision *In Concreto* of the Constitutionality and Legality**

(1) The Constitutional Court has jurisdiction to hear appeals brought against any of the following court decisions:

a) Decisions to the effect of rejecting the application of any provision on grounds of unconstitutionality;

b) Decisions to the effect of confirming the application of any provision, the constitutionality of which was questioned before that court.

(2) The Constitutional Court has jurisdiction to hear appeals brought against any of the following court decisions:

a) Decisions to the effect of rejecting the application of any provisions of a legislative act on grounds of violation of a higher ranking law;

b) Decisions to the effect of rejecting the application of any provision of a regional legislative text on grounds of violation of the statute of an autonomous region or a general law of the Republic;

c) Decisions to the effect of rejecting the application of any provisions of a text adopted by an organ of supreme authority on grounds of violation of the statute of an autonomous region;

d) Decisions to the effect of giving application to a provision, the legality of which was questioned before that court on any of the grounds mentioned in Sub-Paragraphs (a), (b) and (c).

(3) Where the application of a provision of an international convention, a legislative act or a regulatory decree has been rejected by a court, the Public Prosecution *ex officio* appeals under the provisions of Paragraphs (1)(a) and (2)(a).

(4) The appeals provided for in Paragraphs (1)(b) and (2)(d) are available only to the party that raised the question of the violation of the Constitution or the law; the law lays down rules on the requirements and procedure with respect to the admissibility of such appeals.

(5) The Constitutional Court also has jurisdiction to hear appeals brought against court decisions where the latter rule to the effect of giving application to provisions that the former previously ruled to be unconstitutional or illegal; under such circumstances, the Public Prosecution appeals *ex officio*.

(6) Appeals to the Constitutional Court are restricted to the question of unconstitutionality or illegality, as the case may be.

### **Article 281 Supervision *in abstracto* of the Constitutionality and Legality**

(1) The Constitutional Court has jurisdiction to rule on the following; the corresponding rulings being fully binding on every person and every authority:

- a) The unconstitutionality of any provision;
- b) The illegality of any provision of a legislative act on grounds of violation of a higher ranking law;
- c) The illegality of any provision of a regional legislative text on grounds of violation of the statute of a region or a general law of the Republic;
- d) The illegality of any provision of a text adopted by an organ of supreme authority on grounds of violation of the rights of a region as set forth in the statute of the latter.

(2) The following are entitled to request the Constitutional Court to pass fully and generally binding rulings on the unconstitutionality or illegality of a provision:

- 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) Where the grounds for the request with reference to unconstitutionality are the violation of the rights of an autonomous region, or the grounds for the request with reference to the illegality are the violation of the statute of the region concerned or a general law of the Republic, the Ministers for the Republic, the regional legislative assemblies, the presidents of the latter, the presidents of the regional governments, or one-tenth of the members of a regional legislative assembly.

(3) The Constitutional Court also has jurisdiction to rule on the unconstitutionality or illegality of any provision where it has so ruled with respect to the application of that provision in three concrete cases; the corresponding rulings are fully binding on every person and every authority.

### **Article 282 Effects of a Ruling of Unconstitutionality or Illegality**

(1) A generally binding ruling of unconstitutionality or illegality produces its effects as from the entry into force of the provision ruled unconstitutional or illegal and determines the restoration, with retroactive effects, of the provisions that it may have revoked.

(2) In the case of unconstitutionality or illegality due to infringement of a later constitutional or legal provision, the ruling produces its effects only as from the entry into force of the latter.

(3) Cases already judged are safeguarded, except if the Constitutional Court decides otherwise when the provision concerns penal or disciplinary matters or illegal acts in

violation of mere social rules and is less favorable to the accused.

(4) When required by legal security, reasons of equity or public interest of exceptional importance, which have to be justified, the Constitutional Court may fix the effects of unconstitutionality or illegality in a more restrictive way than is provided for in Paragraphs (1) and (2).

### **Article 283 Unconstitutionality by Omission**

(1) At the request of the President of the Republic, the Ombudsman or, on the grounds that the rights of the autonomous regions have been violated, the presidents of the regional assemblies, the Constitutional Court judges and verifies failure to comply with the Constitution by omission on the part of the legislative acts necessary to implement the provisions of the Constitution.

(2) When the Constitutional Court verifies the existence of unconstitutionality by omission, it communicates the fact to the competent legislative organ.

## **Section II Revision of the Constitution**

### **Article 284 Competence and Time of Revision**

(1) The Assembly of the Republic may revise the Constitution once five years have elapsed after publication of any revision law.

(2) The Assembly of the Republic may, however, by a majority of four-fifths of its members entitled to vote, assume powers of constitutional reform at any time after revision provided for in the foregoing article.

### **Article 285 Power to Initiate Constitutional Reform**

(1) Members of the Assembly are competent to initiate constitutional reform.

(2) Once a plan for constitutional reform has been tabled, any further such plans must be tabled within 30 days.

### **Article 286 Approval and Promulgation**

(1) Amendments to the Constitution are approved by a two-thirds majority of the members of the Assembly entitled to vote.

(2) Changes in the Constitution which are approved are incorporated in a single revision law.

(3) The President of the Republic may not refuse to promulgate the revision law.

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

(1) Amendments to the Constitution are inserted in their proper place with the necessary substitutions, deletions, and additions.

(2) The new text of the Constitution is published together with the revision law.

### **Article 288 Limits to the Revision on the Substance**

The laws revising the Constitution safeguard:

- a) National independence and the unity of the State;
- b) The republican form of government;
- c) The separation of the Churches from the State;
- d) The rights, freedoms, and safeguards of the citizens;
- e) The rights of the workers, workers' committees, and trade unions;

- f) The co-existence of the public, the private, and the cooperative and social sectors, with respect to the property of the means of production;
- g) The existence of economic plans within the framework of a mixed economy;
- h) Universal, direct, secret, and periodical suffrage for the appointment of the elected members of the organs of supreme authority, the autonomous regions, and the organs of local government, as well as the system of proportional representation;
- i) Plurality of expression and political organization, including political parties and the right to a democratic opposition;
- j) Separation and interdependence of the organs of supreme authority;
- l) The scrutiny of legal provisions for active unconstitutionality and unconstitutionality by omission;
- m) The independence of the courts;
- n) The autonomy of local authorities;
- o) The political and administrative autonomy of the archipelagos of the Azores and Madeira.

#### **Article 289 Circumstantial Limits to Revision**

No act may be undertaken to revise the Constitution while a state of siege or emergency is in force.

### **[Part V] Final and Transitional Provisions**

#### **Article 290 *Lex Ex Ante***

(1) The constitutional laws subsequent to 25 April 1974 not safeguarded in this chapter are considered ordinary laws, without prejudice to the provisions of the following paragraph.

(2) Ordinary law enacted before the entry into force of the Constitution continues to be in force except in so far as it is contrary to the Constitution or the principles laid down therein.

#### **Article 291 Districts**

(1) Pending concrete establishment of the administrative regions, the division into districts of the areas not covered by them continue.

(2) Each district has, on conditions to be laid down by law, a deliberating assembly made up of representatives of the municipalities.

(3) The civil governor, assisted by a council, is empowered to represent the Government and exercise supervision in the area of the district.

#### **Article 292 Statute of Macao**

(1) While under Portuguese administration, the territory of Macao abides by a statute adequate to its special situation.

(2) The statute of the territory of Macao embodied in Law number 1/76, of 17 Feb, and incorporating the amendments thereto that were introduced by Law number 53/79, of 14 Sep, continue in force.

(3) Upon proposal of either the Legislative Assembly of Macao, or the Governor of Macao, the latter after having heard the Legislative Assembly of Macao, the Assembly of the Republic is empowered to amend or to replace the statute after having sought the opinion of the Council of State.

(4) Where the proposal is approved with amendments, the President of the Republic may not promulgate the decree of the Assembly of the Republic unless the Legislative Assembly of Macao or, as appropriate, the Governor of Macao give a favorable opinion.

(5) The territory of Macao has its own judicial organization, autonomous and adapted to the specificities of that territory, in conformity with the law; the latter safeguards the principle of the independence of the judges.

### **Article 293 Self-Determination and Independence of East Timor**

(1) Portugal remains bound by her responsibilities under international law to promote and safeguard the right to self-determination and independence of East Timor.

(2) The President of the Republic and the Government have the powers to perform all acts necessary for achieving the aims set forth in the preceding paragraph.

### **Article 294 Indictment and Trial of Officers and Personnel of PIDE/DGS**

(1) Law No. 8/75 of 25 July 1975 remains in force with the amendments made by Law No. 16/75 of 23 Dec 1975 and Law No. 18/75 of 26 Dec 1975.

(2) The offences referred to in Articles 2 (2), 3, 4b and 5 of the Law referred to in the foregoing paragraph may be further defined by law.

(3) The exceptional extenuating circumstances as provided for in Article 7 of the said Law may be specifically regulated by law.

### **Article 295 Special Rule on Political Parties**

The provisions of Article [51 \(3\)](#) apply to the political parties set up before the entry into force of the Constitution; the law lays down rules in that respect.

### **Article 296 Principles Applicable to the Re-Privatization Provided for in Article 85 (1)**

The framework law provided for in Article [85 \(1\)](#) safeguards the fundamental principles as follows:

a) The re-privatization of the ownership or the right to exploit means of production or other property nationalized after 25 April 1974, as a rule and preferably, are carried out by way of open public competition, offers in the stock exchange or public subscription;

b) The revenue obtained as a result of the re-privatizations is used only for the purpose of redeeming the national debt, sinking the debt of the State owned businesses, servicing the debt contracted as a result of the nationalizations, or new investments in the capital stock of the productive sector;

c) The workers of re-privatized businesses in the process of re-privatization keep all their rights and duties;

d) The workers of re-privatized businesses acquire the preferential right to subscribe to a part of the latter's capital stock;

e) The value of means of production and other property to be re-privatized is previously estimated by two or more independent entities.

### **Article 297 Provisional Statute of the Autonomous Region of Madeira**

The provisional statute of the Autonomous Region of Madeira remains in force until the entry into force of the corresponding definitive statute.

### **Article 298 Date and Entry Into Force of the Constitution**

(1) The Constitution of the Portuguese Republic bears the date of the adoption thereof by the Constituent Assembly, namely 2 April 1976.

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