

# **Law governing Political Parties**

## **Organisational Law no. 2/2003 of 22 August 2003**

In accordance with Article 161c of the Constitution, the Assembly of the Republic hereby decrees the following, which shall possess the force of a General Law of the Republic:

### **CHAPTER I Fundamental principles**

#### **Article 1 Political and constitutional function**

Political parties shall contribute to the free formation and plural expression of the popular will and to the organisation of political authority, with respect for the principles of national independence, the unity of the State and political democracy.

#### **Article 2 Purposes**

The purposes of political parties shall be:

- a) To contribute to the pluralist enlightenment of citizens and to the exercise of their freedoms and political rights;
- b) To study and debate the problems of political, economic, social and cultural life at national and international level;
- c) To present political programmes and prepare election manifestoes;
- d) To submit candidatures for democratically representative elected bodies;
- e) Particularly from an opposition standpoint, to criticise the activities of the various bodies that belong to the State, the Autonomous Regions, local authorities and the international organisations to which Portugal belongs;
- f) To participate in the clarification of issues which are submitted to national, regional or local referendum;
- g) To promote the training and political preparation of citizens for a direct and active participation in democratic public life;
- h) In general, to help promote fundamental rights and freedoms and the development of democratic institutions.

#### **Article 3 Nature and duration**

Political parties shall possess a legal persona and the legal capacity that is appropriate to the achievement of their purposes, and shall be formed for an indefinite period of time.

#### **Article 4 Principle of freedom**

- 1 – Political parties shall be formed freely, and such formation shall not require authorisation.
- 2 – Political parties shall pursue their purposes freely and without interference from public authorities, save only the jurisdictional controls provided for by the Constitution and the law.

### **Article 5** **Democratic principle**

- 1 – Political parties shall be governed by the principles of democratic organisation and management and of participation by all their members.
- 2 – Every member of a political party shall possess equal rights under its articles of association.

### **Article 6** **Principle of transparency**

- 1 – Political parties shall pursue their purposes publicly.
- 2 – Political parties shall obligatorily include the following in the publicising of their activities:
  - a) Their articles of association;
  - b) The identity of party officers;
  - c) Declarations of principles and political programmes;
  - d) General activities at national and international level.
- 3 – Each political party shall notify the Constitutional Court of the identity of its national officers following their appointment, as well as of its articles of association, declarations of principles and political programmes following their approval and after each amendment, so that the Constitutional Court may take note thereof.
- 4 – The origin and use of party funds shall be publicised as laid down by the Law governing the financing of political parties and election campaigns

### **Article 7** **Principle of citizenship**

The members of political parties shall be citizens who hold political rights.

### **Article 8** **Safeguarding the democratic constitutional order**

Political parties that are armed or military, militarised or paramilitary in nature shall not be permitted, nor shall parties that are racist or display a fascist ideology.

### **Article 9** **National nature**

The formation of political parties with a name or with manifesto objectives that possess a regional nature or scope shall not be permitted.

### **Article 10** **Rights of political parties**

- 1 – Subject to the terms of the law, political parties shall be entitled:
- a) To submit candidates for election to the Assembly of the Republic, the elected bodies of the Autonomous Regions and local authorities, and the European Parliament, and, via those elected and in accordance with each party's number of seats, to take part in the bodies that are based on universal direct suffrage;
  - b) To monitor, inspect and criticise the activities of bodies that belong to the State, the Autonomous Regions, local authorities and the international organisations to which Portugal belongs;
  - c) To broadcasting time on radio and television;
  - d) To form coalitions.
- 2 - Political parties that are represented in elected bodies and are not part of the latter's executive bodies shall possess the right of opposition with a status to be defined by a special law.

### **Article 11 Coalitions**

- 1 – Coalitions of political parties shall be formed freely.
- 2 – Coalitions shall last for the duration that is laid down at the time of their formation, which may subsequently be extended or reduced.
- 3 – Coalitions shall not be entities that are distinct from the political parties which compose them.
- 4 – For the purposes provided for by law, the Constitutional Court shall be notified of the formation of coalitions.
- 5 – Coalitions that are formed for electoral purposes shall be governed by the provisions of electoral law.

### **Article 12 Names, initials and symbols**

- 1 – Each political party shall possess a name, initials and a symbol, which shall not be identical or similar to those of any other party that has already been formed.
- 2 – The name shall not be based on the name of a person, or contain expressions that are directly related to any religion or any national institution.
- 3 – It shall not be possible for the symbol to be confused with, and it shall not be graphically or phonetically related to, national symbols or emblems or religious images or symbols.
- 4 – Coalition symbols and initials shall rigorously reproduce the set of symbols and initials of the political parties that belong to the coalition.

### **Article 13 Internal or associated organisations**

Political parties may internally form organisations or establish associative relations with other organisations in accordance with criteria defined in their articles of association and laid down by the Constitution and the law.

## **CHAPTER II**

## **Formation and termination**

### **SECTION I**

#### **Formation**

##### **Article 14**

#### **Registration with the Constitutional Court**

Recognition of a political party, with the allocation of a legal persona, and the commencement of its activities shall be dependent on its entry on a register that shall be kept at the Constitutional Court.

##### **Article 15**

#### **Applications**

- 1 – Applications to register a political party must be made by at least 7,500 registered electors.
- 2 – Applications to register a political party shall be made in writing, to be accompanied by its draft articles of association, a declaration of principles or manifesto, and its name, initials and symbol, and shall include the full name, identity card number and voter's card number of all the signatories.

##### **Article 16**

#### **Registration and publication of articles of association**

- 1 – Once it has accepted a registration, the Constitutional Court shall send an extract of its decision and the political party's articles of association for publication in the *Diário da República*.
- 2 – The decision provided for by the previous paragraph shall include confirmation that the Constitutional Court has verified the party's legality.
- 3 – At the request of the Public Prosecutors' Office the Constitutional Court may at any time evaluate any rule in a political party's articles of association and declare it to be illegal.

### **SECTION II**

#### **Termination**

##### **Article 17**

#### **Dissolution**

- 1 – A political party shall only be dissolved following a decision taken by its governing bodies in accordance with the applicable rules.
- 2 – The decision to dissolve shall determine what is to be done with the political party's property, which shall only pass to another political party or a not-for-profit association of a political nature, failing which it shall pass to the State.
- 3 - The Constitutional Court shall be notified of the dissolution for the purpose of cancelling the party's registration.

**Article 18**  
**Judicial abolition**

1 – At the request of the Public Prosecutors’ Office, the Constitutional Court shall order the abolition of political parties in the following cases:

- a) The party is deemed to be armed or military, militarised or paramilitary in nature, or an organisation that is racist or displays a fascist ideology;
- b) The number of members falls below 5,000;
- c) For a period of six consecutive years the party does not put forward candidates for at least a third of all constituencies at any general election, or for a fifth of all municipal assemblies in the case of local authority elections;
- d) The party does not provide an updated list of its national officers for a period of more than six years;
- e) The party does not present its accounts for three consecutive years;
- f) It is repeatedly impossible to serve or notify the party in the person of any of its national officers, as per the list registered with the Court.

2 – At the request of the Public Prosecutors’ Office or of any party member, the decision to abolish shall determine what is to be done with any property that is to pass to the State.

**Article 19**  
**Verification of number of members**

The Constitutional Court shall verify fulfilment of the requirement for the minimum number of members provided for by sub-paragraph b) of paragraph 1 of the previous Article regularly at least every five years.

**CHAPTER III**  
**Members**

**Article 20**  
**Freedom of membership**

1 – No one shall be obliged to become or to cease to be a member of any political party, nor shall anyone be coerced into continuing to be a member by any means.

2 – No one shall be denied membership of any political party or expelled therefrom due to ancestry, gender, race, language, territory of origin, religion, education, economic situation or social status.

3 – No one shall be privileged, benefited, prejudiced, deprived of any right or exempted from any duty due to his membership of a political party.

4 – Foreigners and stateless persons who are legally resident in Portugal and who become members of a political party shall enjoy such participatory rights as may be compatible with the status of the political rights they are awarded.

**Article 21**  
**Membership**

1 – The status of member of a political party shall be personal and untransmissible, and shall not grant any material rights.

2 – No one shall be a member of more than one political party at the same time.

**Article 22**  
**Restrictions**

1 – The following shall not apply for membership or be members of political parties:

a) Full-time military and militarised personnel on active service;

b) Agents of the security services and forces on active service.

2 – The following shall not engage in public party political activities:

a) Serving judges;

b) Serving public prosecutors;

c) Serving career diplomats.

3 – The following shall not engage in management activities on parties' executive political management bodies:

a) Directors-General of the Public Administration;

b) Presidents of executive bodies of public institutes;

c) Members of independent administrative bodies.

**Article 23**  
**Internal discipline**

1 – The internal discipline of political parties shall not affect the exercise of rights and the fulfilment of duties laid down by the Constitution and the law.

2 – The applicable bodies of each party shall be responsible for applying disciplinary sanctions, which shall always be subject to guarantees of a hearing and a defence and the possibility of making a complaint or appeal.

**Article 24**  
**Citizens elected for parties**

Citizens who are elected on political party lists shall exercise their mandates freely under the terms set out by the statute governing the office in question and in the rules on the elected body's modus operandi and responsibilities.

**CHAPTER IV**  
**Internal organisation**

**SECTION I**  
**Party bodies**

**Article 25**  
**National bodies**

Within each political party there shall be the following, which shall possess a national scope and the responsibilities and composition set out in the party's articles of association:

a) An assembly that represents the members;

b) A political management body;

c) An internal jurisdictional body.

**Article 26**

## **Representative assembly**

1 – The representative assembly shall be composed of members who are democratically elected by the party members.

2 – The articles of association may also provide for persons to be members of the assembly by right.

3 – Without prejudice to its right to delegate, the assembly shall particularly be responsible for:

- a) Approving the articles of association and the declaration of principles or manifesto;
- b) Where applicable, deciding on the party's dissolution or merger with one or more other political parties.

## **Article 27**

### **Political management body**

The political management body shall be democratically elected with the direct or indirect participation of all the party members.

## **Article 28**

### **Internal jurisdictional body**

The members of the democratically elected internal jurisdictional body shall be guaranteed independence, shall be under a duty of impartiality, and during their mandates shall not be political management officers or members of the party's bureau.

## **Article 29**

### **Political participation**

The articles of association shall ensure direct, active and balanced participation by women and men in political activities and the absence of gender discrimination in the access to party bodies and to selection as candidates to stand for the political party.

## **Article 30**

### **Principle of renewal**

1 – Party offices shall not be lifetime appointments.

2 – Honorary positions shall be an exception to the provisions of the previous paragraph.

3 – The terms of office of party officers shall be those provided for by the articles of association, which may set limits on successive renewals thereof.

## **Article 31**

### **Decisions of party bodies**

1 – Decisions taken by any party body shall be subject to impugnation before the competent internal jurisdictional body on the grounds of a breach of rules laid down by the articles of association or the law.

2 – Aggrieved party members and any other party body may appeal against the internal jurisdictional body's decision to the Constitutional Court under the terms of the law governing the latter's organisation, operation and process.

**Article 32**  
**Removal from office**

1 – In the following cases members of party bodies may be removed from office as an accessory sanction handed down by judicial ruling:

- a) They are convicted by a court of any of the special crimes for which political officeholders may be held liable in the exercise of their functions in bodies that belong to the State, the Autonomous Regions or local authorities;
- b) They are convicted by a court of participating in associations that are armed or military, militarised or paramilitary in nature, racist organisations, or organisations that display a fascist ideology.

2 – Other than in the cases listed by the previous paragraph, removal from office shall only occur under such conditions and in such forms as are provided for by the articles of association.

**Article 33**  
**Internal referenda**

1 – Articles of association may provide for the holding of internal referenda on political issues that are of importance to the party.

2 – Referenda on issues in relation to which the articles of association reserve competence to the representative assembly shall only be held by decision of the latter.

**SECTION II**  
**Elections**

**Article 34**  
**Suffrage**

Party elections and referenda shall be held by individual, secret suffrage.

**Article 35**  
**Electoral procedures**

1 – Party elections shall comply with the following rules:

- a) Electoral rolls shall be drawn up and made available within a reasonable period of time;
- b) Candidatures shall be given equal opportunities and treated impartially;
- c) The proper conduct and validity of electoral procedural acts shall be assessed by an internal jurisdictional body.

2 – Electoral procedural acts shall be subject to impugnation before the internal jurisdictional body by any party member who is an elector or candidate.

3 – Definitive decisions taken under the terms of the previous paragraph shall be subject to appeal to the Constitutional Court.

**CHAPTER V**  
**Organisational activities and means**

**Article 36**

## **Forms of cooperation**

- 1 – Political parties may establish forms of cooperation with public and private bodies, with respect for the autonomy and independence of all concerned.
- 2 – Political parties and public bodies shall only cooperate with one another for specific, temporary purposes.
- 3 – Public bodies shall be under an obligation to treat all political parties without discrimination.

## **Article 37 International affiliation**

Political parties may freely associate with foreign parties or join international federations of parties.

## **Article 38 Financial rules**

The financing of political parties and election campaigns shall be regulated by a specific law.

## **Article 39 Labour relations**

- 1 – Labour relations between political parties and their staff shall be subject to the general labour laws.
- 2 – The fact that a member of staff ceases to be a party member or engages in propaganda against the party that employs him or in favour of a rival candidature shall be deemed just cause for his dismissal.

## **CHAPTER VI Final provisions**

### **Article 40 Application to existing political parties**

- 1 – The present Law shall be applicable to political parties that exist on the date on which it enters into force, and the necessary adaptations shall be made to their articles of association within at most two years.
- 2 – For the purposes of Article 19, the period stipulated therein shall count from the date on which the present Law enters into force.

### **Article 41 Revocation**

The following are hereby revoked:

- a) Executive Law no. 595/74 of 7 November 1974, as amended by Executive Law no. 126/75 of 13 March 1975, by Executive Law no. 195/76 of 16 March 1976, and by Law no. 110/97 of 16 September 1997;

- b) Executive Law no. 692/74 of 5 December 1974;
- c) Law no. 5/89 of 17 March 1989.