

Law No. 62/2007, of 10 September

The legal framework of higher education institutions

The Assembly of the Republic decrees the following under the terms of Article 161, paragraph c) of the Constitution:

SECTION 1

Common principles and provisions

Article 1

Object and scope

1 — This law establishes the legal framework of higher education institutions, specifically governing their constitution, attributions and organisation, the duties and powers of their various bodies and their guardianship and public supervision by the State within the framework of their autonomy.

2 — The provisions contained in this law apply to all higher education institutions, with the exception of those contained in Articles 179 and 180.

3 — Arts education and distance learning are subject to special legislation, to be approved within the framework of the basic principles of this law.

Article 2

The mission of higher education

1 — The aim of higher education is the provision of higher qualifications for Portuguese citizens, the production and dissemination of knowledge and the cultural, artistic, technological and scientific education of students within a framework of internationally recognised standards.

2 — Higher education institutions value the work of their researchers, teaching staff and employees, stimulate the intellectual and professional training of their students and ensure that all duly qualified citizens have access to higher education and to lifelong learning.

3 — Higher education institutions promote effective mobility for students and graduates on a national and international level, particularly within European higher education.

4 — Higher education institutions have the right and the duty to participate, either individually or through their organisational units, in activities that link them to society, particularly through the dissemination and transfer of knowledge and the economic optimisation of scientific knowledge.

5 — Higher education institutions also have the right to contribute towards public understanding of the humanities, arts, science and technology by promoting and organising actions in support of the dissemination of humanities, artistic, scientific and technological culture and by making the necessary resources available for these purposes.

Article 3

The binary nature of higher education

1 — Higher education is organised as a binary system, with university education oriented towards the provision of solid academic training, combining the efforts and responsibilities of both teaching and research units, whilst polytechnic education concentrates particularly on vocational and advanced technical training that is professionally orientated.

2 — The organisation of the binary system must reflect the needs of the increasingly diversified demand for higher education that meets the requirements of those who complete secondary education and those who are seeking vocational and professional courses and lifelong learning.

Article 4

Public and private higher education

1 — The higher education system includes:

- a) Public higher education, consisting of the institutors that belong to the State and the foundations it has set up, under the terms of current legislation;

- b) Private higher education, consisting of institutions belonging to private entities and cooperatives.

2- Under the Constitution, the State is obliged to create a network of public higher education institutions to meet the country's needs.

3 — The right to create private higher education establishments is guaranteed under the Constitution and under this law.

4 — Higher education institutions or study cycles may not operate under franchise agreements.

Article 5

Higher education institutions

1 — Higher education institutions include:

- a) University education institutions, consisting of universities, university institutes and other university education institutions;
- b) Polytechnic education institutions, consisting of polytechnic institutes and other polytechnic education institutions.

2 — University institutes and other higher education university and polytechnic institutions come under the same regime as universities and polytechnic institutes, as appropriate, including autonomy and self-government, with the necessary adaptations.

Article 6

University education institutions

1 — Universities, university institutes and other university education institutions are high-level institutions dedicated to the creation, transmission and dissemination of culture, knowledge, science and technology through study, teaching, research and experimental development.

2 — Universities and university institutes award “Licenciado” degrees, Masters Degrees and Doctorates as prescribed by law.

3 — Other university education institutions award “Licenciado” degrees and Masters Degrees, as prescribed by law.

Article 7

Polytechnic education institutions

1 — Polytechnic institutes and other polytechnic education institutions are high-level institutions dedicated to the creation, transmission and dissemination of culture and professionally-orientated knowledge through study, teaching, guided research and experimental development.

2 — Polytechnic education institutions award “Licenciado” degrees and Masters Degrees, as prescribed by law.

Article 8

Attributes of higher education institutions

1 — Within the scope of each sub-system, the attributes of higher education institutions are as follows:

- a) The implementation of study cycles leading to the award of academic degrees, in addition to other post-secondary courses, postgraduate training courses and other courses, as prescribed by law;
- b) The creation of a suitable educational environment appropriate for such purposes;
- c) The undertaking of research work, support for and involvement in scientific institutions;
- d) The transfer and economic optimisation of scientific and technological knowledge;
- e) The implementation of vocational training and refresher courses;
- f) The provision of services to the community and support for development;
- g) Cooperation and cultural, scientific and technical exchanges with similar national and foreign institutions;
- h) Contribution, within individual spheres of activity, to international cooperation and closer links between peoples, with an emphasis on Portuguese-speaking and European countries;
- i) The production and dissemination of knowledge and culture.

2 — Higher education institutions are also responsible, by law, for issuing degree equivalences and recognising degrees and academic qualifications.

Article 9

Status and legal framework

1 — Public higher education institutions are collected persons governed by public law which may, however, assume the status of public foundations governed by private law under the terms stipulated in Section III Chapter VI.

2 — In all matters which do not contradict this law and the various special laws, with the exception of the provision in Section III Chapter IV, public higher education institutions are subject to the system applicable to the various legal persons governed by administrative public law, namely the framework law for public institutions, which serves as subsidiary legislation in areas which do not conflict with the provisions of this law.

3 — The founding bodies of private higher education institutions are legal persons governed by private law and these establishments do not have the status of separate legal individuals.

4 — Private higher education institutions are governed by private law in all matters that do not conflict with current law or any other applicable legislation, notwithstanding the fact that they are subject to the principles of impartiality and justice in their institutional relations with teachers and students, particularly with regard to career promotions procedures for such teachers and admission and assessment procedures for such students.

5 — The following matters are subject to generic regulation by special law, observing the provisions in this present law and in general laws that are applicable:

- a) Admission to higher education;
- b) The academic degree system;
- c) The terms under which tenured professorships are awarded;
- d) The terms under which the academic title of specialist is awarded;
- e) The system of equivalences and recognition of academic degrees and other qualifications;

- f) The creation, modification, suspension and abolition of study cycles;
- g) The accreditation and evaluation of study cycles;
- h) The financing of public higher education institutions through the State budget and the setting of tuition fees for these institutions;
- i) The system and career structure for teaching and research staff in public institutions;
- j) The system for teaching staff in private institutions;
- l) Student social services;
- m) Official bodies representing public higher education institutions.

6 — As special legislation, this law and the laws referred to in the previous point are not affected by general law unless there is an express provision to the contrary.

7 — In addition to the legal and statutory norms and the various regulations governing them, higher education institutions may also define codes of good practice for pedagogical matters and codes for good governance and management.

Article 10

Name

1 — Higher education institutions must possess their own characteristic name in Portuguese which identifies them unequivocally, notwithstanding the use of other versions of this name in foreign languages.

2 — It must not be possible to confuse the name of an institution with any other public or private education institution, nor should this name give rise to any ambivalence with regard to the nature of the institution or the education it offers.

3 — The use of the terms "university", "faculty", "higher institute", "university institute", "polytechnic institute" and "higher school" are reserved for use in the names of higher education establishments, together with any other expressions that convey the idea that they administer higher education.

4 — The name of each higher education institution can only be used after it has been registered with the supervising ministry.

5 — Failure to respect the provisions contained in the previous points constitute grounds for the refusal or cancellation of the registration of the name.

Article 11

Attributes of higher education institutions

1 — Public higher education institutions enjoy statutory, pedagogical, scientific, cultural, administrative, financial, asset and disciplinary autonomy with regard to the State, with the appropriate distinctions according to their nature.

2 — The statutory, scientific, pedagogical, administrative and financial autonomy of universities is recognised in Article 76, point 2 of the Constitution.

3 — Private higher education establishments enjoy pedagogical, scientific and cultural autonomy with regard to their founding body and to the State.

4 — Each higher education institution has its own statutes which, in terms of the law, describe their mission and pedagogical and scientific objectives, establish their autonomy and define their organisational structure.

5 — The autonomy of the higher education institutions does not preclude guardianship or government supervision, depending on whether they are public or private institutions, or accreditation and external assessment as prescribed by law.

Article 12

Diversity of organisation

1 — Diversity of institutional organisation is ensured within the context of higher education.

2 — Within the framework of their autonomy and as prescribed by law, the higher education institutions are organised freely and in the manner they consider most suitable for their mission and specific context.

Article 13

Organisational units

1 — The universities and polytechnic institutes may include autonomous organisational units which have their own bodies and staff, namely:

- a) Teaching or teaching and research units, hereinafter referred to as schools;
- b) Research units;
- c) Libraries, museums and other similar units.

2 — Schools and research units may avail themselves of self-governing bodies and self-management, under the terms of this law and the statutes of the appropriate institution.

3 — On their own initiative or following the decision of the institution's governing bodies, organisational units may share material or human resources and organise joint initiatives including study cycles and research projects.

4 — University schools may be named faculties or higher institutes or may adopt another suitable name under the terms of the statutes of the respective institution.

5 — Polytechnic institute schools may be named higher schools or higher institutes or may adopt another suitable name under the terms of the statutes of the respective institution.

6 — Whenever justified and if approved by the supervising minister following a favourable opinion from the Coordinating Council for Higher Education, polytechnic schools may, when duly justified and under exceptional circumstances, be integrated into universities whilst maintaining their polytechnic status for all due effects and purposes including the career structure of the teaching staff, since mergers between universities and polytechnics are not permitted.

7 — Under the terms of their statutes, universities and polytechnic institutes may create organisational units outside their main campus which are subject to the provisions contained in this law and which must, in the case of schools, meet the respective requirements for the accreditation and registration of courses, premises and equipment and teaching staff.

Article 14

Organisational units and other research institutions

1 — Organisational research units may be named centres, laboratories or institutes or may adopt another suitable name under the terms of the statutes of their respective institution.

2 — The following may be created: research units associated with universities with or without the status of organisational units, university organisational units, university institutes and other university education institutions, polytechnic institutes, polytechnic institute organisational units and other polytechnic education institutions.

3 — Research institutions may also be created that are common to various university or polytechnic higher education institutions or their organisational units.

4 — The provision contained in this law also applies to scientific research and technological development institutions created within higher education institutions with legislation to regulate their activities, specifically in terms of organisation, autonomy and academic responsibility.

Article 15

Bodies governed by private law

1 — Under the terms of their statutes, public higher education institutions, either through their own initiative or through their organisational units, may freely create, on an individual basis or in conjunction with other public or private entities, become partners with, or incorporate, subsidiary entities governed by private law, such as foundations, associations and societies dedicated to assisting them in realising their objectives.

2 — Within the context of the previous point, the following may be created:

- a) Associationss to develop higher education which combine the resources of higher education institutions or their organisational units with private resources;
- b) Consortiums of higher education institutions or their organisational units and research and development institutions.

3 — Public higher education institutions and their autonomous organisational units may delegate to the entities referred to in the previous point the execution of certain tasks including the provision of non-degree courses through a protocol which clearly defines the terms of delegation, notwithstanding their responsibilities and academic/pedagogical supervision.

Article 16

Cooperation between institutions

1 — Higher education institutions may freely establish, amongst themselves or with other institutions, association or cooperation agreements to encourage mobility amongst students and teaching staff and in order to pursue partnerships and common projects, including joint degree programmes as prescribed by law or the sharing of resources and equipment, whether based upon geographical or sector criteria.

2 — Under the terms stipulated in the statutes of the higher education institution, the organisational units of a higher education institution may also form associations with the organisational units of other higher education institutions for the purposes of the joint coordination of their activities.

3 — National higher education institutions may freely join networks and establish partnerships and cooperative relations with foreign higher education institutions, foreign or international scientific organisations and other institutions, in particular within the European Union, bilateral or multilateral agreements signed by the Portuguese State, together with those established with Portuguese-speaking countries for the purposes described in the previous point.

4 — International activities and cooperation programmes must be compatible with the nature and purposes of the institutions and take into consideration the main principles of national policy, specifically with regard to education, science, culture and international relations.

Article 17

Consortiums

1 — In order to coordinate training and human and material resources, public higher education institutions may establish consortiums among themselves and with public or private research and development institutions.

2 — The consortiums described in the previous point may also be created by government initiative through an order from the supervising minister, on the recommendation of institutions.

3 — Public higher education institutions may also enter into agreements amongst themselves for the regional coordination of activities, which may also be determined by the supervising minister, on their recommendation.

4 — The consortiums and agreements referred to in the previous points do not compromise the identity and autonomy of each participating institution.

5 — Provided that the requirements contained in Articles 42 and 44 are met, the government may authorise adoption of the respective university of polytechnic institute name by the consortiums referred to in the previous points.

Article 18

Associations and representative bodies

1 — Higher education institutions may form associations or cooperate with each other for the purposes of institutional representation or to coordinate and regulate joint activities and initiatives.

2 — The law creates and regulates the official representative and coordinating bodies of the public higher education institutions.

3 — The official representative bodies of the public higher education institutions ensure general representation in addition to representation for areas of training via appropriate mechanisms representing the schools.

4 — Under the terms stipulated in the statutes of the respective higher education institution, the organisational units of a higher education institution may also form

associations with the organisational units of other higher education institutions for the purposes of the joint coordination of their activities.

Article 19

Participation in education and research policy

1 — The higher education institutions have the right and the duty to participate, individually or through their representative organisations, in the formulation of national policy and to pronounce on legislative projects which directly concern them.

2 — The representative organisations of higher education institutions are consulted on:

- a) Legislative initiatives on higher education and academic research;
- b) The regional planning of higher education.

3 — The public higher education institutions also have the right to be consulted on the definition of criteria establishing the allocation of State financing and the criteria for setting tuition fees for study cycles which award degrees.

Article 20

Student social services and other forms of support for education

1 — In its relations with students, the State ensures the existence of a system of student social services which favours access to, and success in, higher education, employing positive discrimination in favour of economically disadvantaged students with appropriate school qualifications.

2 — The student social services ensure that no student is excluded from the higher education system on the grounds of financial need.

3 — Within the context of the student social services, the State provides direct and indirect support that is managed in a flexible, decentralised fashion.

4 — The following are forms of direct support:

- a) Student grants;
- b) Emergency help.

5 — The following are forms of indirect support:

- a) Access to food and housing;
- b) Access to health care;
- c) Support for cultural and sporting activities;
- d) Access to other forms of educational support.

6 — In its relations with students, the State also ensures other forms of support, namely:

- a) The awarding of merit grants to students who achieve exceptionally high marks;
- b) Support for students with special needs, namely disabled students;
- c) The promotion of a system of loans for self-financing students.

Article 21

Student associations

1 — Higher education institutions support student union associations and must provide conditions for the establishment of autonomous associations under the terms of special legislation in force.

2 — Higher education institutions also have a duty to encourage artistic, cultural and scientific activities and promote facilities for experimentation and for support in the development of extracurricular skills, specifically involving collective and social participation.

Article 22

Working students

Higher education institutions create the necessary conditions to support working students, namely by providing forms of organisation and attendance on courses that are suited to their circumstances and by valuing the skills they have acquired through employment.

Article 23

Former students

Higher education institutions establish and support a framework for maintaining links between former students and their respective student union associations, facilitating and encouraging their contributions toward the strategic development of the institutions.

Article 24

Employment support

1 — Within the context of social responsibility, it is incumbent upon higher education institutions to:

- a) Support student involvement in working life in conditions that also enable them to develop their academic work;
- b) Reinforce conditions which develop the supply of part-time professional activities for students by the institution, under conditions that also enable them to develop their academic work;
- c) Support the entry of their graduates into working life.

2 — Each institution is obliged to collate and disseminate information on the employment of its graduates, in addition to information on their career paths.

3 — The State is responsible for guaranteeing public access to this information and/or its quality and comparability, specifically through the adoption of common methodologies.

Article 25

Student ombudsman

Under the terms established in its statutes, a student ombudsman is appointed in each higher education institute, working in conjunction with student associations, the institution's bodies and services, namely the Pedagogic Councils, and its organisational units.

Article 26

Role of the State

1 — Within the field of higher education, it is incumbent upon the State to carry out certain duties stipulated in the Constitution, namely:

- a) To create and maintain a network of public higher education institutions and guarantee their autonomy;
- b) To ensure the freedom to create and manage private higher education establishments;
- c) To encourage openness to the modernisation and internationalisation of higher education institutions;
- d) To guarantee high pedagogical, scientific, technological and cultural standards in higher education establishments;
- e) To encourage scientific research and technological innovation;
- f) To ensure that teaching staff, researchers and students participate in the management of higher education establishments;
- g) To ensure public dissemination of information on educational projects, higher education institutions and the study cycles they offer;
- h) To evaluate scientific, pedagogical and cultural quality in education;
- i) As prescribed by law, to finance public higher education institutions and support private higher education institutions;
- j) To support investments and initiatives which promote improvements in the quality of education.

2 — The State encourages lifelong education to allow for continuous learning, access by all suitably qualified citizens to the higher levels of education, scientific research and artistic creation and the academic and professional fulfilment of students.

Article 27

Powers of the Government

1 — In order to pursue the duties established in the previous article and notwithstanding any other legally established powers, the government is responsible for:

- a) Creating, modifying, founding, separating and closing public higher education institutions;
- b) Attributing and revoking recognition of public interest in private higher education establishments.

2 — The supervising minister is responsible in particular for:

- a) Verifying that the requirements for the creation and operation of higher education establishments are met;
- b) Registering the name of higher education establishments;
- c) Ratifying or registering, as appropriate, the statutes of higher education institutions and any alterations to these statutes;
- d) Ratifying the elections of rectors or presidents of public higher education institutions;
- e) Intervening in the procedure for establishing the maximum number of new admissions and enrolments under the terms of Article 64;
- f) Promoting the dissemination of information on educational establishments and their study cycles;
- g) Supervising compliance with the law and applying the sanctions stipulated by law in the event of any infractions.

Article 28

State financing and support

1 — The financing of public higher education institutions and the support given to private higher education institutions is undertaken under the terms of special law.

2 — The granting of public support for private higher education institutions complies with the principles of transparency, objectivity and non-discrimination.

Article 29

Registers and transparency

The supervising ministry organises and keeps an up-to-date official register accessible to the public of the following data on higher education institutions and their activities:

- a) Higher education institutions and their relevant characteristics;
- b) Consortiums of higher education institutions;
- c) Current study cycles leading to the award of degrees and, where appropriate, the regulated professions for which the degree holders qualify;
- d) Teaching staff and researchers;
- e) The results of the accreditation and assessment of higher education institutions and their study cycles;
- f) Statistical information, specifically on the number of places, applicants, students enrolled, degrees and diplomas awarded, teaching staff, researchers, other staff, student social services and public funding;
- g) Employability of holders of degrees;
- h) The general base of higher education graduates;
- i) Other relevant data, as defined in an order issued by the supervising minister.

Article 30

Obligations of the founding bodies of private higher education establishments

1 — The founding bodies of private higher education establishments are responsible for the following:

- a) Creating and ensuring the necessary conditions for the normal operation of the educational establishment and ensuring its administrative, economic and financial management;
- b) Submitting the statutes of the educational establishment, and any alterations to these statutes, for consideration and registration by the supervising minister;
- c) Providing the educational establishment with suitable premises and equipment, together with the necessary human and financial resources;
- d) Maintaining a valid insurance contract or providing a base level of assets that adequately covers both the maintenance of material and financial resources essential to the operations of the higher education establishment;
- e) Appointing and dismissing, under the terms of the relevant statutes, members of the management board of the educational establishment;

- f) Approving plans of activities and budgets drawn up by the various bodies of the educational establishment;
- g) Employing a statutory auditor to certify accounts;
- h) Setting the price of tuition fees and other charges payable by students for attending study cycles administered by the educational establishment, on the recommendation of the management board;
- i) Contracting teaching staff and researchers proposed by the Rector, President or Director of the educational establishment, on the recommendation of the relevant Scientific or Technical-Scientific Council.
- j) Contracting non-teaching staff;
- l) Applying for accreditation and registration of study cycles, on the basis of the recommendation of the Scientific or Technical-Scientific Council of the educational establishment and the Rector, President or Director;
- m) Maintaining, in original and safe condition, academic records of the students applying for admission to the educational establishment, the students admitted, enrolments, the final marks for each course, equivalences and recognition of qualifications, degrees and diplomas awarded and the respective final marks or qualifications.

2 — The powers of the founding bodies must be carried out without compromising the pedagogical, scientific and cultural autonomy of the educational establishment in accordance with the provisions in the constituent instrument of the founding body and in the statutes of the establishment.

SECTION II

Institutions, organisational units and study cycles

CHAPTER 1

Form and procedures for creating institutions

Article 31

Public higher education institutions

- 1 — Public higher education institutions are created by Decree-Law.
- 2 — Public higher education institutions are created in compliance with national planning for the network of public higher education, taking into consideration its needs and sustainability.

Article 32

Private higher education establishments

- 1 — Private higher education establishments may be created by entities with the legal status of foundations, associations or cooperatives constituted specifically for this purpose, in addition to non-profit making cultural or social entities which include education in their objectives.
- 2 — Private higher education establishments may also be created by entities with the legal status of a private limited company or public limited company constituted specifically for this purpose, provided that:
 - a) In the deeds of foundation all partners are to be registered, specifying their respective shareholdings, in addition to the members of the board of directors and supervisory board, or a report of all major direct or indirect shareholders;
 - b) Any changes in the information referred to in the previous point are reported to the appropriate authority or supervising ministry within 30 days.

3 — Under the terms of Article 188 of the Civil Code, the supervising minister is responsible for recognising all foundations whose scope includes the creation of higher education establishments.

4 — The founding bodies of private higher education establishments must fulfil the appropriate institutional and financial sustainability requirements and are obliged to provide adequate guarantees in the form of assets or insurance.

Article 33

Official State Recognition

1 — Having fulfilled the requirements established by law, the founding bodies of private higher education establishments must request official recognition by the State in the respective establishment from the supervising minister.

2 — Official recognition by the State of a private higher education establishment will determine its incorporation into the higher education system, including its power to award officially recognised degrees.

3 — The founding bodies of private higher education establishments, except for those run for profit, enjoy the same rights and privileges as the collective persons of a public utility in relation to those activities associated with the creation and operation of such an establishment.

4 — A private higher education establishment may only begin to function after official recognition by the State and registration of the respective statutes.

5 — Presuppositions underlying the official recognition by the State must be verified at least once every 10 years and whenever there are any indications to the contrary.

6 — The non verification of any presuppositions regarding official State recognition in relation to private higher education establishments may lead to revocation, as prescribed by law.

Article 34

Decision on requests for official recognition by the State

Decisions on requests for official State recognition interest in a private higher education establishment are provided within a maximum period of six months after the case has been fully submitted by the founding body, including accreditation of the study cycles to be initially ministered, which must not be less than the number cited in Articles 42 and 45.

Article 35

Form of official State recognition

1 — Official recognition by the State in an educational establishment is obtained by Decree-Law.

2 — The recognition diploma must state:

- a) The name, nature and main office of the founding body;
- b) The name and location of the educational establishment;
- c) The nature and objectives of the educational establishment;
- d) The study cycles that have been initially authorised.

3 — Together with the official state recognition, the statutes of the educational establishment are registered through an order issued by the supervising minister.

Article 36

Operation of establishments without official State recognition

1 — The operation of a private higher education establishment without prior official State recognition under the terms of this law will lead to:

- a) The immediate closure of the establishment;
- b) The disregarding, for all due effects and purposes, of the education provided by the establishment;
- c) The automatic dismissal of requests for recognition of public interest that have been, or are about to be, presented by the founding body of the

establishment in question or of any other establishment for a subsequent period of three years.

2 — The measures referred to in the previous point are determined in an order issued by the supervising minister.

3 — Closure is solicited via the administrative and police authorities and is communicated in the relevant order.

Article 37

Transfer, incorporation or merger of establishments

The supervising minister must be informed in advance of any transfer, incorporation or merger of private higher education establishments and recognition may be revoked on the grounds that the assumptions and circumstances affecting recognition of public interest have changed.

Article 38

Period of installation

1 — The coming into operation of a university or polytechnic institute usually takes place through a system of installation.

2 — In public higher education institutions the system of installation is characterised in particular by:

- a) Regulation by provisional statutes approved by the supervising minister;
- b) Freely appointed governing and managerial bodies approved by the supervising minister.

3 — In the organisational units of public higher education institutions, the system of installation is characterised in particular by:

- a) Regulation by provisional statutes approved by the General Council of the institution;
- b) Freely appointed governing and managerial bodies approved by the Rector or President of the institution.

4 — The services of the supervising ministry ensure special supervision of institutions under the system of installation and produce an annual report which is submitted to the supervising minister.

5 —During the period of installation, higher education institutions benefit from the provision contained in Article 46.

6 —The system of installation has a maximum duration of five academic years from the commencement of teaching.

7 — For up to six months before the end of the period of installation, institutions must initiate procedures which lead to the cessation of the process of installation.

8 — The system of installation may be terminated at any time:

- a) For public higher education institutions, following approval of the respective statutes drawn up under the terms of this law and the coming into operation of bodies constituted by the said statutes;
- b) For private higher education institutions, by order from the supervising minister following a request made by their respective founding body.

CHAPTER II

Requirements for establishments

Article 39

Equal requirements

The creation and the activities of higher education establishments are subject to the same set of essential requirements, both general and specific, according to whether the establishments in question are universities or polytechnics, regardless of whether they are public or private educational establishments.

Article 40

General requirements for higher education establishments

The following are general requirements for the creation and operation of higher education establishments:

- a) An educational, scientific and cultural plan;
- b) Premises and material resources suitable for the type of establishment in question, namely teaching areas, libraries and laboratories that are appropriate to the study cycles that are to be provided;
- c) Training that is compatible with the type of establishment in question, whether university or polytechnic;
- d) A teaching body of a suitable size and suitably qualified for the nature of the establishment and the degrees it is permitted to award;
- e) An assurance of the academic and pedagogical autonomy of the establishment, including the existence of scientific and pedagogical managerial boards for the establishment, its organisational units, where appropriate, and its study cycles;
- f) An assurance that teaching staff, researchers and students are involved in governing the establishment;
- g) A guarantee of the high pedagogical, scientific and cultural standards of the establishment;
- h) An assurance of student social services;
- i) An assurance that services are provided to the community.

Article 41

Premises

1 — Teaching on study cycles leading to the award of degrees may only take place in premises authorised by the supervising ministry.

2 — Requirements for premises are defined in an order issued by the supervising Minister.

Article 42

Requirements for universities

In addition to the various conditions established by law, there is also a minimum requirement that the creation and operation of a university educational establishment must conform to the nature and purposes defined in Article 6 and the following requirements should be met:

- a) Authorisation to administer at least:
 - i) Six “licenciatura” study cycles, two of which must be technical-laboratory courses;
 - ii) Six Masters study cycles;
 - iii) One Doctorate study cycle covering at least three different areas which are compatible with the university's educational mission;
- b) A teaching body which complies with the provisions contained in Chapter III of this section;
- c) Availability of premises suitable for university education and libraries and laboratories suitable for the study cycles in question;
- d) Activities developed within the field of education and research and in the creation, dissemination and transmission of culture;
- e) Availability of assessed and recognised centres for research and development or participation in such centres.

Article 43

Requirements for university institutions

In addition to the various conditions established by law, there is also a minimum requirement that the creation and running of an educational establishment operating as a university institute must conform to the nature and purposes defined in Article 6 and that the following requirements should be met:

- a) Authorisation to administer at least:
 - i) Three “Licenciatura” study cycles;
 - ii) Three Masters study cycles;
 - iii) One Doctorate study cycle in an area or areas that are compatible with the university's educational mission;
- b) Fulfilment of the requirements referred to in paragraphs b) and e) of the previous point.

Article 44

Requirements for polytechnic institutes

In addition to the various conditions established by law, it is also a minimum requirement that the creation and running of an educational establishment operating as a polytechnic institute must conform to the nature and purposes defined in Article 7 and that the following requirements should be met:

- a) The inclusion of at least two schools covering different areas;
- b) The authorisation to administer at least four “Licenciatura” study cycles, two of which must be technical-laboratory courses, in at least two areas which are compatible with the polytechnic's educational mission.
- c) A teaching body which complies with the provision contained in Chapter III of this Section;
- d) The availability of premises suitable for polytechnic education and libraries and laboratories suitable for the study cycles in question;
- e) The development of guided research activities.

Article 45

Requirements for other higher education establishments

1 — Educational establishments which are authorised to administer at least one “licentiatura” and one Masters study cycle may be created as other university higher education establishments.

2 — Educational establishments which are authorised to administer at least one “licentiatura” study cycle may be created as other polytechnic higher education establishments.

3 — The higher education establishments referred to under the previous points must observe the various requirements which apply to universities or polytechnic institutes, according to type.

Article 46

Institutions under the system of installation

1 — During the period of installation, universities and university institutes:

- a) Administer at least half of the series of study cycles referred to in Article 42 a) and Article 43 a) respectively;
- b) With regard to the requirement stated in Article 42 e), only participation in assessed and recognised centres for research and development is required.

2 — During the period of installation, polytechnic institutes administer at least half of the series of study cycles referred to in Article 44 b).

CHAPTER III
The teaching body

Article 47

The teaching body in university education institutions

1 — The teaching body in university education institutions must meet the following requirements;

- a) For each cycle of studies, fulfilment of the requirements established by law for accreditation;
- b) Provision, within the teaching staff and researchers involved in teaching or research work, including a minimum of one Doctorate holder in any position within the institution, per 30 students;
- c) At least half of those holding Doctorates referred to in the previous paragraph must be employed on a full-time basis.

2 — The teaching staff and researchers referred to in paragraphs b) and c) in the previous point:

- a) If employed on a full-time basis, may only be considered for this purpose within this particular institution;
- b) If employed on a part-time basis, may not be considered for this purpose in more than two institutions.

Article 48

Title of specialist

1 — Within the context of polytechnic education, the title of specialist is only conferred under the terms established by Decree-Law.

2 — The title of specialist is proof of the quality and particular relevance of recognised professional experience in a particular area.

Article 49

The teaching body in polytechnic education institutions

1 — The teaching body in polytechnic education institutions must meet the following requirements;

- a) For each cycle of studies, fulfilment of the requirements established by law for their accreditation;
- b) Provision, within the teaching staff and researchers involved in teaching or research work, of a minimum of one member of staff with the title of specialist or holding a Doctorate in any position within the institution, per 30 students;
- c) Within the teaching staff and researchers involved in teaching or research work in any capacity within the institution, at least 15% must hold Doctorates and be employed on a full-time basis and at least 35% must hold the title of specialist and may also hold Doctorates.

2 — The majority of the teaching staff who hold the title of specialist must be working professionally in the area in which this title was awarded.

3 — The teaching staff and researchers referred to in paragraphs b) and) of point 1:

- a) If employed on a full-time basis, may only be considered for this purpose within that particular institution;
- b) If employed on a part-time basis, may not be considered for this purpose in more than two institutions.

Article 50

Stability of teaching and research staff

In order to guarantee their academic and pedagogical autonomy, higher education institutions must have a permanent staff of teachers and researchers who benefit from greater stability in terms of the status of their employment (tenure), under the scales and terms established in the teaching and scientific research career structures.

Article 51

Limits and incompatibilities affecting the work of teaching staff

1 — Teaching staff in public higher education institutions employed on a full-time basis may, if authorised by the institution in question, accumulate teaching duties in another higher education establishment up to the limits established in their respective career statutes.

2 — Teaching staff in private higher education establishments may, under the terms established in their respective career statutes, accumulate teaching duties in another higher education establishment.

3 — In addition to any other legally established conditions, the accumulation of teaching duties in private higher education institutions by teaching staff from other public or private higher education institutions also requires that the following should be informed:

- a) The appropriate bodies of the respective higher education institution, by the teacher;
- b) The Directorate-General for Higher Education, by the higher education institutions.

4 — Public and private higher education institutions may enter into cooperation agreements with the aim of accumulating teaching duties under the terms and within the limits described under the previous points.

5 — Teaching staff employed on a full-time basis in a public higher education institution:

- a) May not serve on the managerial bodies of any other higher education institution;
- b) May serve as members of the Scientific, Technical-Scientific or Pedagogical Councils of another higher education institution.

Article 52

The teaching body of private higher education establishments

1 — The teaching staff in private higher education must be ensured, within the educational establishments in which they work, a parallel career structure to that of teaching staff in public higher education.

2 — The teaching staff in private higher education establishments must have the qualifications and degrees legally required for the exercise of the same category of duties within public higher education.

Article 53

Regulations for teaching and research staff in private institutions

The regulations for teaching and research staff in private institutions are approved by Decree-Law.

CHAPTER IV

The merger, integration, division and transfer of higher education institutions

Part I

Public higher education

Article 54

Measures for rationalising public higher education

1 — The State must promote rationalisation of the network of public higher education institutions and the training they offer.

2 — Measures undertaken to rationalise the work may include the creation of higher education establishments, their merger, integration, division or closure, alterations to the number of admissions or the maximum number of students and the creation, suspension or termination of study cycles.

Article 55

The merger, integration, division and closure of public higher education institutions

1 — Public higher education institutions are closed by Decree-Law, taking into consideration the results of assessment and the recommendations of the bodies of the institution in question, in addition to the representative bodies of public higher education institutions and the Coordinating Council for Higher Education.

2 — Public higher education institutions may be founded, integrated or divided under the same terms.

3 — The Decree-Law governing closure, merger, integration or division takes into consideration, with any necessary alterations, the principles established by the general standards applicable to this area and determines measures to safeguard:

- a) The rights of students;
- b) The rights of staff, as prescribed by law;
- c) The official files and records of the institutions.

Part II

Private higher education

Article 56

Voluntary closure

1 — The founding bodies of private higher education institutions may proceed with the closure of teaching establishments or end the provision of study cycles.

2 — The decisions described under the previous point may include suitable measures to protect student interests, which are the entire responsibility of the founding bodies and are subject to approval by the supervising Minister.

Article 57

Merger, integration or transfer

1 — Private higher education establishments may be founded, integrated or transferred on the decision of their respective founding bodies.

2 — The abolition or dissolution of the founding body implies the closure of the respective teaching establishment and study cycles, unless the establishment has been transferred to another founding body.

3 — The closure of a teaching establishment under the circumstances referred to in the previous point is stated in an official order issued by the supervising minister.

4 — Transfer implies the fulfilment of all necessary requirements on the part of the new founding body.

Article 58

Storage of documentation

1 — The essential documentation of a private educational establishment that has closed remains in the care of the respective founding body, unless:

- a) Closure was due to the abolition or dissolution of the founding body;
- b) Circumstances relating to the functioning of the founding body advise against this.

2 — In the cases stipulated in paragraphs a) and b) of the previous point, the supervising Minister determines which entity should receive and store the essential documents in question.

3 — The body in receipt of essential documents for safekeeping is responsible for issuing any documents from the closed educational establishment which may be requested. This relates to the period of time in which it was operational.

4 — For the purposes of this article, essential documents are understood to mean any certification of teaching and administrative work, namely the records of the managerial bodies, accounts, teaching staff contracts, records of teaching services, records of student grades and student files.

5 — If these documents are required for other purposes, namely of a legal nature, authentic copies should be taken, and such copies are the responsibility of the entity referred to in points 1 and 2.

CHAPTER V

The creation, transformation, division, merger and closure of organisational units

Article 59

Creation, transformation, division, merger and closure

1 — The creation, transformation, division, merger and closure of the organisational units of a higher education institution is the responsibility of:

- a) The General Council, in the case of public educational institutions;
- b) The founding body, in the case of private educational establishments, on the recommendation of the various bodies of the establishment.

2 — The creation, transformation, division, merger and closure of public higher education institution schools requires authorisation in advance from the supervising Minister and takes into consideration, with any necessary alterations, the principles established in general standards applicable to this area.

Article 60

Sub-organisational units

The creation, transformation, division, merger and closure of sub-organisational units of a higher education institution are effected under the terms established in the statutes.

CHAPTER VI

Study cycles

Article 61

Creation, accreditation and registration of study cycles

1 — Higher education institutions enjoy the right to create study cycles leading to the awarding of degrees.

2 — The following are responsible for creating study cycles leading to the awarding of degrees:

- a) In public higher education institutions, the Rector or President, on the recommendation of the Scientific or Technical-Scientific Council and the Pedagogical Council;
- b) In private higher education institutions, the founding body, on the recommendation of the Rector, President or Director, the Scientific or Technical-Scientific Council and the Pedagogical Council.

3 — The commencement of study cycles leading to the awarding of degrees requires accreditation by the Evaluation and Accreditation Agency for Quality Assurance in Higher Education and subsequent registration with the supervising ministry.

4 — The system for accreditation and registration of study cycles applies to all higher education institutions and distinguishes between licentiate, masters and Doctorate study cycles and whether they are university or polytechnic in nature.

5 — The application for registration of study cycles is subject to the presentation of a duly proven request under the terms established by law.

6 — Registration of study cycles requires recognition of the general validity of the degree or degrees awarded.

Article 62

The operation of unregistered study cycles

1 — Study cycles leading to the award of degrees which operate without prior registration will result in:

- a) The preliminary rejection of the application;
- b) Closure of the study cycles;
- c) The prohibition of proceeding with registration, or the registration of other similar study cycles during the subsequent two following years.

2 — The education administered on unregistered study cycles may not be recognised or receive equivalences for the purposes of awarding higher education degrees.

3 — Higher education institutions are obliged to provide clear information on whether the study cycles they administer lead to the awarding of degrees or not, and must in the latter case also provide data regarding their registration.

Article 63

Revocation of accreditation and registration

1 — Failure to comply with legal requirements or statutory provisions or failure to observe the criteria which justify the accreditation and registration of study cycles will lead to their revocation.

2 — Accreditation is revoked by the decision of the Evaluation and Accreditation Agency for Quality Assurance in Higher Education.

Article 64

Quantitative limits

1 — The maximum annual number of new admissions and the maximum annual number of students that may be enrolled in each study cycle in each academic year is fixed annually in advance by the higher education institutions, taking the resources of each institution into consideration, namely the teaching staff, premises equipment and finances.

2 — The procedure referred to in the previous point is subject to limits resulting from the legal criteria established for the operation of educational establishments and for accreditation of study cycles, including any limits set when accreditation was awarded.

3 — With reference to public higher education institutions, the process referred to in point 1 is also subject to the general guidelines established by the supervising Minister, on the recommendation of bodies representing the institutions, taking into consideration the rationalisation of the training available, national policy on the training of human resources and the resources available.

4 — Higher education institutions annually inform the supervising Minister of the figures set for “licenciatura” study cycles and those integrated with Masters courses under the terms of the previous points, accompanied by their respective justification.

5 — In the event of a lack of express and sufficient justification for the amounts set, any infringement of the applicable legal norms or any failure to comply with the general guidelines established under the terms of point 3, the figures referred to in the previous points may be altered by official order issued by the supervising minister and published in the *Diário da República* (Official State Gazette).

6 — The supervising ministry will announce the figures set for study cycles for undergraduate degrees integrated with Masters Degrees.

7 — The figures set out under the terms of the previous points may not be transferred to other higher education institutions.

SECTION III

The organisation and management of public higher education institutions

CHAPTER 1

General principles

Article 65

Organisation and management

By law, public higher education institutions adopt the institutional organisational and management model which they consider most appropriate for their mission and the specific context within which they operate.

CHAPTER II

Statutes

Article 66

Statutory autonomy

Public higher education institutions enjoy statutory autonomy whilst observing the provisions contained within this law.

Article 67

Object of the statutes

1 — The statutes must define the mission of the institution, with regard to its nature and the provisions in its constitution where applicable, and must state the fundamental regulations governing its internal organisation and its disciplinary, financial and administrative plans, with regard to the provisions contained within this law and other applicable laws.

2 — The statutes govern:

- a) The role of the institution;

- b) The structure of the governing and managerial bodies, their composition and the forms of electing or appointing members, the duration of their mandate and the means of dismissing them;
- c) The powers of the various bodies;
- d) The autonomous structure of the organisational units and its respective bodies.

Article 68

Approval and revision of statutes

1 — When they are founded, public higher education institutions are provided with provisional statutes approved in an official order issued by the supervising Minister which remain effective throughout the period of installation.

2 — The statutes of public higher education institutions may be revised:

- a) Four years after the date of publication of the previous revision;
- b) At any time, on the decision of two thirds of the full members of the General Council.

3 — Alterations to statutes require the approval of two thirds of the members of the General Council.

4 — The following may propose alterations to statutes:

- a) The Rector or President, as applicable;
- b) Any member of the General Council.

Article 69

Approval and publication of statutes

1 — Statutes and their alteration require government approval, which is granted or refused within a period of 60 days by official despatch issued by the supervising Minister.

2 — Approval covers the legality of the statutes and alterations and they may only be rejected on the grounds of failure to abide by the Constitution or the law or any irregular amendment with regard to this current law or to the statutes themselves.

3 — Should the revised statutes include measures which, by law, require approval by the supervising Ministry, ratification may be refused on the grounds that this approval has not been granted.

CHAPTER III

Academic autonomy

Article 70

Autonomy to define missions

1 — Within the framework of the Basic Law of the Education System and further legislation, each higher education institution is responsible for defining its objectives and educational and research programme in accordance with its mission and available resources, notwithstanding the provisions contained in its constitutional statutes and the objectives it has agreed with the State.

2 — Each institution is responsible for ruling on the creation, transformation or closure of organisational units and study cycles as prescribed by law, notwithstanding the need for ratification by the supervising ministry or approval under the terms of this current law and supplementary legislation.

Article 71

Academic autonomy

1 — Public higher education institutions enjoy cultural, scientific, pedagogical and disciplinary autonomy by law.

2 — Schools and research units also enjoy academic autonomy, namely scientific and pedagogical autonomy, under the terms of the statutes of the institute to which they belong and under their own statutes.

Article 72

Cultural autonomy

Cultural autonomy grants institutions the right to define their own training programme and cultural initiatives.

Article 73

Scientific autonomy

Scientific autonomy grants public higher education institutions the right to define, plan and carry out research and other scientific activities, notwithstanding the criteria and procedures for state funding of research.

Article 74

Pedagogical autonomy

Pedagogical autonomy confers on public higher education institutions the right to draw up study plans, define course objectives, allocate resources and choose procedures for the assessment of knowledge, affording both teachers and students intellectual freedom in teaching and learning processes.

Article 75

Disciplinary autonomy

1 — Disciplinary autonomy confers on public higher education institutions the power to punish, as prescribed by law and the terms of their statutes, any disciplinary infractions on the part of the teaching staff, researchers, other employees and agents and students.

2 — The exercise of disciplinary power is governed by the following:

- a) The Disciplinary Statute for Central, Regional and Local Government Employees and Agents, in the case of public employees and civil servants;
- b) The Labour Code and the law on the legal framework for civil service contracts, in the case of staff holding individual employment contracts;

- c) The provisions contained in points 4, 5 and 6 and in the statutes and regulations of the institution itself, in the case of students, with the additional application of the structure stipulated in paragraph a).

3 — In the case of staff who have the status of civil servants, the effects of the sanctions are as stipulated in the Disciplinary Statute for Central, Regional and Local Government Employees and Agents.

4 — The following constitute infractions of discipline on the part of students:

- a) Violation of any of the obligations stipulated in law, the statutes and the regulations;
- b) Acts of violence or physical coercion practised against other students, particularly within the context of the “praxes académicas” (student initiation rituals).

5 — The following sanctions may be applied to disciplinary infractions committed by students, according to their gravity:

- a) Warnings;
- b) Fines;
- c) Temporary suspension from academic activities;
- d) Suspension of academic assessment for one year;
- e) Bans on attending the institution for up to five years.

6 — Disciplinary power is held by the Rector or President, as appropriate, and may be delegated to directors or presidents of organisational units, notwithstanding the right of appeal to the Rector or President.

CHAPTER IV
Self government and managerial autonomy

Part I
Governing bodies

Article 76
Self-government

Public higher education institutions possess their own governing bodies, as prescribed by law and the terms of their statutes.

Article 77
Governing bodies of universities and university institutes

1 — Universities and university institutes are governed by the following bodies:

- a) The General Council;
- b) The Rector;
- c) The Management Board.

2 — With the aim of ensuring cohesion within the university and the involvement of all organisational units in its management, the statutes may provide for the creation of an academic Senate consisting of representatives of the organisational units, which acts as an obligatory advisory body to the Rector on matters defined in the institution's own statutes.

3 — In addition to the bodies described in the previous points, the statutes may also provide for the existence of other consultative bodies.

Article 78
Governing bodies of polytechnic institutes

1 — Polytechnic institutes are governed by the following bodies:

- a) The General Council;
- b) The President;

- c) The Management Board.

2 — In addition to the bodies described in the previous point, the statutes may also envisage the existence of other consultative bodies.

Article 79

Other institutions

1 — Other institutions are governed by the following bodies:

- a) The General Council;
- b) The Director or President;
- c) The Management Board.

2 — In addition to the bodies described under the previous point, the statutes may also envisage the existence of other consultative bodies.

Article 80

The Scientific or Technical-Scientific Council and Pedagogical Council

1 — Higher education institutions must include the following bodies:

- a) In schools:
 - i) In universities, a Scientific Council and a Pedagogical Council;
 - ii) In polytechnics, a Technical-Scientific Council and a Pedagogical Council;
- b) In organisational research units, a Scientific Council.

2 — The statutes of each institution may establish forms of cooperation and links between the Scientific or Technical-Scientific Council and Pedagogical Councils in each institution or create bodies which have their own powers within the scientific or technical-scientific and pedagogical spheres.

3 — University higher education institutions which are not organised into faculties, institutes or schools and therefore do not have an individual Scientific Council and Pedagogical Council, may resort to the Scientific Council and Pedagogical Council of the institution itself.

Part II
General Council

Article 81

Composition of the General Council

1 — The General Council consists of 15 to 35 members, depending upon the size of each institution and the number of schools and organisational research units.

2 — The following are members of the General Council:

- a) Representatives of teachers and researchers;
- b) Student representatives;
- c) Individuals of recognised merit who have the relevant knowledge and experience but who do not belong to the institution.

3 — The members referred to in paragraph a) of the previous point:

- a) Are elected by all the teachers and researchers in the higher education institution using a system of proportional representation, under the terms of the statutes;
- b) Must constitute more than half of the total number of members of the General Council.

4 — The members referred to in paragraph b) of point 2:

- a) Are elected by all the students in the higher education institution using a system of proportional representation under the terms of the statutes;
- b) Must constitute at least 15% of the total number of members of the General Council.

5 — The members referred to in paragraph c) of point 2:

- a) Are co-opted by the members referred to in paragraphs a) and b) of point 2 by absolute majority, under the terms of the statutes, based on justified proposals subscribed to by at least one third of the members;
- b) Must constitute at least 30% of the total number of members of the General Council.

6 — In selecting the members referred to in paragraph c) of point 2, polytechnic higher education institutions must take into consideration the fact that their institutional organisation is characterised particularly by the following principals:

- a) Their respective geographical community;
- b) Links with professional and business activities reflecting their specific mission or particular areas of specialisation and the aim of offering solid professional training at higher levels.

7 — Under the terms of the statutes, the General Council may include members elected by non-teaching and non-research staff.

8 — The mandate for elected or appointed members is four years, except in the case of students for whom it is two years, and they may only be dismissed by the General Council on the basis of an absolute majority decision in the event of grave lapses under the terms of the regulations of the Council.

9 — Members of the General Council neither represent groups nor sectarian interests and act independently.

10 — When the calculations referred to in paragraph b) of points 4 and 5 are not whole numbers they are rounded down to the nearest whole number.

Article 82

Powers of the General Council

1 — The General Council is responsible for:

- a) Electing a chairman, by absolute majority, from among the members referred to in paragraph c) of point 2 of the previous article;
- b) Approving its regulations;
- c) Approving alterations to statutes under the terms of points 2 to 4 of Article 68;
- d) Organising election procedures and electing the Rector or President, under the terms of the applicable statutes and regulations;
- e) Appraising the acts of the Rector or President and the General Council;
- f) Proposing initiatives considered necessary for the proper running of the institution;

- g) Performing any other duties stipulated by law or in the statutes.

2 — If proposed by the Rector or President, the General Council is responsible for the following:

- a) Approving medium-term strategic plans and the plan of action for the four-year mandate of the Rector or President;
- b) Approving the general guidelines for the institution contained in the scientific, pedagogical, and financial or asset plan;
- c) Creating, transforming or closing organisational units;
- d) Approving annual plans of activities and assessing the annual report on institutional activities;
- e) Approving budget proposals;
- f) Approving the annual consolidated accounts, accompanied by the opinion of the statutory auditor;
- g) Setting the tuition fees payable by students;
- h) Proposing or authorising, as stipulated by law, the purchase or sale of the institution's assets and its credit operations;
- i) Pronouncing on any other matters that may be submitted by the Rector or President.

3 — It is obligatory for the decisions referred to in paragraphs a) to d) and f) of point 2 to be preceded by an opinion produced and approved by the outside members referred to in point 2 paragraph c) of the previous article.

4 — Decisions of the General Council are approved by a simple majority, except in cases where the law or the statutes require an absolute or a more stringent majority vote.

5 — In all matters over which it has power, the General Council may request opinions from other institutional bodies or from its organisational units, namely the advisory bodies.

Article 83

Powers of the Chairman of the General Council

1 — The Chairman of the General Council is responsible for:

- a) Convening and presiding over meetings;

- b) Declaring or verifying vacancies on the Council and proceeding with the necessary replacements, under the terms of the statutes;
- c) Performing any other duties entrusted to them under the terms of the statutes.

2 — The Chairman of the General Council may not interfere in the exercise of the powers of the various institutional bodies and is not responsible for representing them or issuing statements in their name.

Article 84

Meetings of the General Council

1 — Ordinary meetings of the General Council are held four times a year, in addition to any extraordinary meetings convened by the Chairman or at the request of the Rector or President of the institution or one third of its members.

2 — On the decision of the Council, the following may attend meetings without voting rights:

- a) Directors of organisational units;
- b) Individuals invited to provide specialist opinions.

3 — The Rector or President attends meetings of the General Council without the right to vote.

Part III

The Rector and President

Article 85

Duties of the Rector and President

1 — The office of Rector of a university or university institute or President of a polytechnic institute is the most senior governor and external representative of the institution.

2 — The rector or president is the office through which the policies of the institution are conducted and it is they who preside over the General Council.

Article 86

Election

1 — The Rector or President is elected by the General Council under the terms established in the statutes of each institution and according to the procedures described in the relevant regulations.

2 — The election process specifically includes:

- a) Public announcement of the opening for candidates;
- b) Submission of candidates;
- c) Public hearing of candidates, with presentation and discussion of their programme of action;
- d) The final majority vote of the General Council, by secret ballot.

3 — Teachers or researchers from the institution, or from other national or foreign university or research institutions, may be elected university rectors.

4 — The following may be elected presidents of polytechnic institutes:

- a) Teachers or researchers from the institution, or from other national or foreign higher education or research institutions;
- b) Individuals of recognised merit with relevant professional experience.

5 — The following may not be elected Rector or President:

- a) Individuals in retirement;
- b) Individuals convicted of disciplinary, financial or criminal infractions during the exercise of their public or professional duties during the four years following their conviction;
- c) Individuals ineligible in any other way by law.

6 — The supervising Minister may only refuse to approve the election of a Rector or President on the grounds of ineligibility, illegalities in the election process or violation of the rules and general principles of the Code of Administrative Procedures.

Article 87

Term of mandate

1 — The Rector or President holds a four-year mandate which may be renewed once under the terms of the statutes.

2 — If the mandate ends early, the new Rector or President takes office with a new mandate.

Article 88

Vice-Rectors and Vice-Presidents

1 — The Rector and President are assisted, under the terms established in the institution's statutes, by Vice-Rectors or Vice-Presidents.

2 — Vice-Rectors and Vice-Presidents are freely appointed by the Rector and President and may come from outside the institution.

3 — Vice-Rectors and Vice-Presidents may be dismissed at any time by the Rector or President and the end of their mandates coincide with the mandates of the latter.

4 — The statutes may create other offices to assist the Rector or President.

Article 89

Dismissal of the Rector and President

1 — In situations which seriously threaten the life of the institution, the General Council convened by the Chairman or a third of its members may decide, on the basis of a two-thirds majority vote by members, to suspend the Rector or President and, after the due administrative procedures have been implemented, to dismiss them on the basis of the same majority decision.

2 — The decision to suspend or dismiss a Rector or President may only be voted on at a meeting convened especially for that purpose.

Article 90

Exclusivity of office

1 — The offices of Rector and President are held on the basis of exclusivity of office.

2 — If they are teachers or researchers at the respective institution, Rectors, Presidents, Vice-Rectors and Vice-Presidents are exempt from teaching or research duties although they may, upon their own initiative, agree to provide these services.

Article 91

Substitution of the Rector and President

1 — If the Rector or President is temporarily indisposed, their appointed Vice-Rector or Vice-President assumes their duties, or in the lack of any such provision, the most senior member.

2 — If they are unavailable for more than 90 days, the General Council must rule on the whether it is appropriate to elect a new Rector or President.

3 — In the event of a vacancy, resignation or the long-term incapacity of the Rector or President, the General Council must decide on initiating procedures for the election of a new rector or president within a maximum period of eight days.

4 — During the time in which the office of Rector or President remains vacant and in the event of any suspension under the terms of the previous article, the position shall be held in the interim by a Vice-Rector or Vice-President chosen by the General Council or, in the absence of this, in the manner prescribed in the statutes.

Article 92

Powers of the Rector and President

1 — The Rector or President directs the respective university, university institute or polytechnic institute and is specifically responsible for:

- a) Producing and presenting proposals to the General Council on:
 - i) The medium-term strategic plan of action for their four-year mandate;
 - ii) General scientific and pedagogical guidelines for the institution;
 - iii) The annual plan and report of activities;

- iv) The budget and annual consolidated accounts, accompanied by the opinion of the statutory auditor;
 - v) The purchase and sale of institutional assets and credit operations;
 - vi) The creation, transformation or closing of organisational units;
 - vii) Tuition fees payable by students;
- b) Approving the creation, suspension and closing of courses;
 - c) Approving the maximum numbers for new admissions and enrolments referred to in Article 64;
 - d) Supervising academic management, namely by deciding on the opening of candidates for election, the appointment and contracting of staff in any capacity, the appointment of election candidate panels and academic examinations and the system and regulations for assessing teaching staff and students;
 - e) Guiding and supervising the administrative and financial management of the institution and ensuring the efficient use of funds and resources;
 - f) Allocating support for students within the framework of the student social services, as prescribed by law;
 - g) Approving the awarding of titles and honours;
 - h) Instituting educational prizes;
 - i) Approving the election and appointment of members of the managerial bodies of the organisational units which have their own governing bodies, rejecting them only on the grounds of illegality, and establishing them in office;
 - j) Appointing and dismissing, as prescribed by law and the statutes, directors of organisational units which do not have their own governing bodies;
 - l) Appointing and dismissing, as prescribed by law and the statutes, the director and managers of the institution's services;
 - m) Exercising disciplinary power, in accordance with the provisions of this law and the statutes;
 - n) Ensuring that decisions taken by the collegiate bodies of the institution are implemented;

- o) Approving regulations envisaged under the law and in the statutes, notwithstanding the regulatory powers of the organisational units within their own spheres;
- p) Encouraging observance of the law, statutes and regulations;
- q) Proposing initiatives considered necessary for the proper management of the institution;
- r) Performing any other duties stipulated by law and in the statutes;
- s) Informing the supervising Minister of all data employed in the exercise of their duties, namely plans, budgets, financial reports and reports of activities;
- t) Taking any measures necessary to ensure the quality of education and research in the institution and its organisational units;
- u) Representing the institution before a judge or court of law.

2 — All other duties not attributed by law or by the statutes to any other institutional body.

3 — The statutes of the institution, with the aim of ensuring the organisational units function to their best ability, by:

- a) Establishing, within the context of schools that have their own bodies and are managed autonomously, which of the Rector's or President's powers may be granted to those bodies?
- b) Envisaging the attribution of some of the Rector's or President's powers to the bodies of other organisational units;
- c) Establishing that the exercise of certain powers may require an obligatory hearing in advance by other bodies.

4 — The Rector or President may, as prescribed by law and under the statutes, delegate to the Vice-Rector or Vice-President and the managerial bodies of the institution or its organisational units, powers which are necessary for more efficient management.

5 — Any decision on the matters referred to in paragraphs g) and h) of point 1 and paragraph m) of the same point referring to the application of serious sanctions may be governed by the statutes, pending a favourable opinion by another body.

Article 93

Governing Boards of other institutions

1 — The Directors or Presidents of other higher education institutions are elected under the terms stipulated in Article 86.

2 — Directors or Presidents may be assisted, under the terms established in the respective statutes, by Deputy-Directors or Vice-Presidents.

3 — The provisions set out in previous articles referring to Rectors and Presidents and to Vice-Rectors and Vice-Presidents apply to Directors or Presidents and Deputy-Directors or Vice-Presidents respectively.

Part IV

The Management Board.

Article 94

Composition of the Management Board

1 — The Management Board is appointed and presided over by the Rector or President, as applicable, and consists of a maximum of five members, under the terms stipulated in the statutes of the institution, including the Vice-Rector or Vice-President and a Director.

2 — Directors or Presidents of organisational units, heads of the institutions' services and representatives of students and non-teaching/research staff may be invited to attend meetings of the Management Board, without voting rights.

Article 95

Powers of the Management Board

1 — The Management Board is responsible for the administrative, asset and financial management of the institution, in addition to the management of human resources and is subject to the current legislation pertaining to public bodies with administrative autonomy.

2 — The Management Board is also responsible for establishing charges and salaries.

3 — The Management Board may, under the terms of the statutes, delegate the powers considered necessary for more efficient management to the various bodies of the organisational units and the directors of services.

Part V

Government and management of organisational units which have their own bodies and managerial autonomy

Article 96

Statutes of organisational units

1 — Schools and organisational research units endowed with their own bodies and managerial autonomy under the statutes of the institution are governed by their own statutes, under the terms of the law and the statutes of the institution.

2 — The statutes require ratification by the Rector or President of the institution, as applicable, in order to verify their legality and compliance with the statutes and regulations of the institution.

Article 97

Structure of the bodies

The schools and organisational research units referred to in the previous article have the structure of bodies established under the statutes of the institution and observe the following minimum requirements:

- a) One single body, which is executive in nature, serves as the Director or President of the unit;
- b) In the event of the existence of a representative collegiate body:
 - i) It should consist of no more than 15 members;
 - ii) At least 60% of it should include teaching staff and researchers;
 - iii) It should include student representatives;
 - iv) It may include representatives of non teaching/research staff and outside bodies;
 - v) It must elect a Director or President.

Article 98

Powers

The powers of the bodies are established by the statutes of the organisational unit and respect both the law and the statutes of the institute.

Article 99

Financial supervision

If endowed with financial autonomy, the organisational units are subject to supervision by the financial supervisory body of the institution to which they belong.

Article 100

Powers of the Director or President of the organisational unit

The Director or President of the organisational unit is responsible for:

- a) Representing the organisational unit before the various bodies of the institution and outside the institution;
- b) Presiding over the managerial body, where it exists, directing the services of the organisational unit and approving the necessary regulations;
- c) Approving the calendar and timetable for academic duties, on the recommendation of the Scientific or Technical-Scientific Council and the Pedagogic Council;
- d) Executing the decisions of the Scientific or Technical-Scientific Council and the Pedagogic Council, when binding;
- e) Exercising the disciplinary power granted by the statutes or delegated by the Rector or President of the institution;
- f) Drawing up the budget and plan of activities, in addition to the financial report and report on activities;
- g) Performing any other duties stipulated by law or in the statutes;
- h) Performing any duties delegated by the rector or president of the institution.

Article 101

Limit on mandates

The consecutive mandates of the Director or President of an organisational unit may not exceed eight years.

Part VI

Scientific or Technical Scientific and Pedagogical Council

Article 102

Composition of the Scientific or Technical Scientific and Pedagogical Council

1 — In university education, universities, university schools, university institutes and other university institutions, the Scientific Council consists of:

- a) Representatives elected, under the terms of the statutes and the regulations of the organisational unit, from among the following:
 - i) Professors and professional researchers;
 - ii) Other full-time teaching and research staff employed under contracts of not less than one year who hold Doctorates, regardless of the nature of their employment status within the institution;
- b) Representatives of recognised research that have been positively assessed as prescribed by law, where they exist;
 - i) They are chosen under the terms stipulated in the statutes and the regulations of the organisational unit;
 - ii) In numbers established in the statutes that amount to not less than 20% and not more than 40% of the total members of the Council, but which may be less than 20% when the number of research units is below this figure.

2 — The majority of the members referred to in paragraph a) of the previous point are chosen from among professors and career researchers.

3 — In polytechnic schools, the Technical-Scientific Council consists of:

- a) Representatives elected, under the terms of the statutes and the regulations of the organisational unit, from among the following:

- i) Professors;
- ii) Individuals equivalent to full-time professors who have held a contract with the school in this capacity for at least 10 years;
- iii) Full-time teaching staff holding contracts of no less than one year who hold Doctorates, regardless of the nature of their employment status within the institution;
- iv) Full-time specialist teaching staff under contracts of no less than one year who are not covered under the previous paragraphs;
- b) Representatives of recognised research units that have been positively assessed, as prescribed bylaw, where they exist;
 - i) They are chosen under the terms stipulated in the statutes and the regulations of the organisational unit;
 - ii) In numbers established in the statutes that amount to not less than 20% and not more than 40% of the total members of the Council, but which may be less than 20% when the number of research units is below this figure.

4 — In organisational research units, the Scientific Council consists of representatives elected under the terms of the statutes and regulations of the organisational unit, from among the following:

- a) Professors and professional researchers;
- b) Other full-time teaching and research staff employed under contracts of no less than one year who hold Doctorates, regardless of the nature of their employment status within the institution.

5 — The statutes may establish the possibility of Scientific or Technical-Scientific Councils also including members invited from among the professors and research staff of other institutions, or individuals with recognised competence in the area covered by the institution's mission.

6 — The Scientific or Technical-Scientific Council consists of a maximum of 25 members.

7 — When the number of persons eligible is less than the number established in the statutes, the Council will consist of this group, notwithstanding the provision in paragraph b) of point 1.

8 — The statutes govern the Chair of the Scientific or Technical-Scientific Council, which may be assigned to the Director or President of the organisational unit.

Article 103

Powers of the Scientific or Technical-Scientific Council

1 — The Scientific or Technical-Scientific Council is specifically responsible for:

- a) Approving its regulations;
- b) Assessing the academic plan of activities for the unit or institution;
- c) Deciding upon the creation, transformation or closure of the institution's organisational units;
- d) Deciding upon the distribution of teaching duties, subject to approval by the Rector or President or the Director or President of the school, as appropriate;
- e) Deciding upon the creation of study cycles and approving plans for the studies administered on study cycles;
- f) Proposing or presiding over the awarding of titles and honours;
- g) Proposing or presiding over instigating educational prizes;
- h) Proposing or presiding over international agreements and partnerships;
- i) Proposing the composition of panels for examinations and academic candidates;
- j) Performing other duties stipulated by law relating to the career structure of teaching and research staff and the recruitment of teaching and research staff;
- l) Performing any other duties that may be assigned to it by law or by the statutes.

2 — Members of the Scientific or Technical-Scientific Council may not pronounce on the following:

- a) Matters relating to the career structure of teachers of higher rank than themselves;
- b) Candidates or examinations which they may be in a position to oppose.

Article 104

Pedagogical Council

1 — The Pedagogical Council consists of an equal number of representatives from the teaching and student body of the institution or school, elected under the terms established in the statutes and regulations.

2 — The statutes govern the Chair of the Pedagogical Council, which may be assigned either to the Director or the President of the organisational unit.

Article 105

Powers of the Pedagogical Council

The Pedagogical Council is responsible for:

- a) Deciding upon pedagogical guidelines and teaching and assessment methods;
- b) Launching regular inquiries into the pedagogical performance of the organisational unit or institution and analysing and publishing the results;
- c) Promoting the assessment of the pedagogical performance of teachers by both themselves and by students and analysing and publishing the results;
- d) Considering complaints related to pedagogical inadequacies and proposing appropriate measures;
- e) Approving regulations for assessing and passing students;
- f) Deciding upon the system of course prescriptions;
- e) Deciding upon the creation of study cycles and plans for study cycles already being administered;
- g) Deciding upon the instigation of educational prizes;
- i) Deciding upon the academic calendar and exam schedule for the organisational unit or institution;

- 1) Exercising any other powers that may be assigned to it by law or by the statutes.

Part VII

Incompatibilities and impediments

Article 106

Independence and conflicts of interest

1 — Those holding office and members of the governing and managerial bodies of public higher education institutions serve the public interests of their institutions exclusively and carry out their duties independently.

2 — The Rectors and Vice-Rectors of universities, Presidents and Vice-Presidents of polytechnic institutes, Directors or Presidents of their respective organisational units, and Directors or Presidents and Deputy-Directors or Vice-Presidents of other higher education establishments may not belong to the governing or managerial bodies of any other public or private higher education institutions.

3 — The various incompatibilities and impediments affecting those holding office or members of public higher education institution bodies are defined in the statutes.

4 — Verification of any incompatibilities will result in the loss of mandate and ineligibility for any of the posts referred to in point 2 for four years.

Part VIII

Remuneration system

Article 107

Remuneration of those holding office in governing and managerial bodies

The remuneration system for those holding office in governing and managerial bodies in public higher education institutions and those of their organisational units is established by Decree-Law, on the recommendation of institutional representative bodies.

CHAPTER V
Administrative, financial and asset management

Section I
Common standards

Article 108
Managerial autonomy

Public higher education institutions enjoy autonomy, by law, in the management of their assets, administration and finances.

Article 109
Autonomy of assets

1 — Public higher education institutions enjoy autonomy of assets.

2 — The assets of each public higher education institution consist of all the goods and rights granted to it by the State or by other public or private entities for the purpose of enabling it to reach its objectives, in addition to assets acquired by the institution itself.

3 — The assets of each higher education institution include:

- a) The properties it purchased or built, including those on land belonging to the State, after either Law no. 108/88 dated 24 September, 1988, or Law no. 54/90 dated 5 September, 1990, came into effect, as applicable;
- b) Properties from the State private sector which have been legally transferred to its assets.

4 — Public higher education institutions may administer assets from the State public or private sector or from any other territorial collective which the owner has granted to them, as prescribed by law and any protocols agreed between the two entities.

5 — Public higher education institutions may purchase or rent land and buildings which are essential to their work, as prescribed by law.

6 — Public higher education institutions may freely dispose of their assets within the limitations established in law and in their statutes.

7 — The sale, exchange and transfer of assets and the conceding of land rights require authorisation in the form of a joint dispatch from the Minister responsible for finance and the supervising Minister.

8 — Properties which form part of the assets of non-university public higher education institutions and which are no longer necessary to the institution's role or responsibilities are, unless constructed or purchased exclusively with the institutions own revenue or received as donations, incorporated into the State's assets on the basis of a joint dispatch from the Minister responsible for finance and the supervising Minister, on the recommendation of the institution.

9 — The percentage of the proceeds of the sale of public higher education institution properties which reverts to these institutions is established in a joint dispatch from the minister responsible for finance and the supervising Minister and:

- a) Is used for investment expenses;
- b) May not amount to less than 50%;
- c) May amount to up to 100% if exclusively designated for the building, renovation or purchase of assets to be used in education, research or development.

10 — Public higher education institutions keep an up-to-date inventory of their assets and a register of assets in the state, public or private sector which are under their care.

Article 110

Administrative autonomy

1 — Public higher education institutions enjoy administrative autonomy and their actions are subject only to litigation, except in cases prescribed by law.

2 — In exercising their administrative autonomy, public higher education institutions may:

- a) Issue regulations on cases prescribed by law and in the statutes;
- b) Perform administrative duties;
- c) Execute administrative contracts.

3 — Except in duly justified emergencies, regulations may not be approved more one month after the presentation of plans which are discussed by interested parties. over a period of one month.

Article 111

Financial autonomy

1 — Public higher education institutions enjoy financial autonomy as prescribed by law and their statutes, and freely manage their financial resources according to criteria which they have established, including the annual funds allocated to them in the State budget.

2 — In exercising their financial autonomy, public higher education institutions may:

- a) Draw up pluri-annual plans;
- b) Draw up and implement budgets;
- c) Liquidate and recover revenue;
- d) Authorise expenses and make payments;
- e) Make all budget adjustments except those which are the responsibility of the Assembly of the Republic and those which are not compatible with the allocation of income received.

3 — Public higher education institutions may take out insurance for their tangible and intangible assets, provided that this is paid for out of their own income. This is in addition to health and work-related risk insurance for their employees, agents and any other workers who have entered their service from abroad, or foreign individuals providing any form of services on a temporary basis.

4 — Public higher education institution expenses incurred in foreign currencies may be paid directly using banking services deemed to be the most suitable and efficient.

Article 112

Budget transparency

Public higher education institutions are obliged to provide information to the State, as a guarantee of budgetary stability and mutual support, in addition to the obligation of

providing the community with information regarding their financial situation in an easily accessible and accurate form.

Article 113

Guarantees

1 — The budgetary system for public higher education institutions must abide by the following rules:

- a) Reliability of estimates of income and expenditure, certified by a statutory auditor;
- b) Consolidation of the budget and accounts for the institution and its organisational units;
- c) Efficient use of available financial resources;
- d) Obligatory communication on the of provisional managerial and financial reporting measures to the Minister responsible for finances and to the supervising Minister;
- e) Supervision and inspection by the Ministry responsible for finances.

2 — Public higher education institutions are subject to the National Plan of Accounts for the State Education Sector (POC — Educação).

3 — Public higher education institutions are subject to the provisions in law regarding budgetary balance and discipline in the use of public funds.

4 — The rules which apply to public higher education institutions with regard to balancing budgets are:

- a) For institutions that have already adopted the National Plan of Accounts for the State Education Sector and have had their accounts certified, stated in Article 84, point 2 of Law no. 91/2001 dated 20 August, 2001, amended by Organic Law no. 2/2002 dated 28 August, 2002, and Laws nos. 23/2003 dated 2 July, 2003, and 48/2004 dated 24 August, 2004, notwithstanding the simultaneous application of Article 25, points 3 and 4 of the same legislation, according to criteria established in a joint dispatch issued by both the Minister responsible for finance and the supervising Minister;

- b) For other institutions, stated in Article 25 of Law no. 91/2001 dated 20 August, 2001.

5 — In the event of any failure to comply with the provisions contained in the previous point, the budgets of public higher education institutions may be penalised in the subsequent financial year by a reduction in transfers from their State budget allocation up to the value of 100% of the registered deficit, notwithstanding the financial liability in question.

6 — In the event of any unjustified failure to comply with the obligation of providing information prescribed in this article within the respective periods of time, up to 10% of each twelfth part of current transfers from the state budget may be withheld for each month in arrears.

7 — Any decisions which determine or authorise illegal expenses or are not covered by the budget are null and void and imply financial liability.

Article 114

Revenue and expenditure balance

1 — Legal provisions which make it obligatory for the revenue and expenditure balance originating from State budget allocations to revert to the State Treasury do not apply to public higher education institutions.

2 — The use by public higher education institutions of the revenue and expenditure balance originating from State budget allocations do not require authorisation from either the Minister responsible for finance or the supervising Minister.

3 — Alterations to the private budgets of public higher education institutions which translate into applying the revenue and expenditure balance do not require authorisation from the minister responsible for finance or the supervising minister.

Article 115

Income

1 — The income of public higher education institutions consists of the following:

- a) Budget allocations received from the State;

- b) Revenue from tuition fees and other charges for attending study cycles and other training courses;
- c) Revenue from research and development activities;
- d) Revenue from intellectual property;
- e) Revenue from the institution's own assets or assets from which they benefit;
- f) Revenue from services rendered, the issuing of expert opinions, the sale of publications and other products from their activities;
- g) Subsidies, grants, partnerships, donations, inheritances and bequests;
- h) The proceeds from the sale or leasing of tangible assets, or other assets, authorised by law;
- i) Interest on deposit accounts and remuneration from other financial applications;
- j) The revenue and expenditure account balance from previous years;
- l) The proceeds from charges, salaries, fines, penalties and any other income to which they are legally entitled:
- m) The proceeds of agreed loans;
- n) Revenue from pluriannual loans agreed with the State;
- o) Any other revenue prescribed by law.

2 — Public higher education institutions may resort to the use of credit under the terms established by law, following authorisation issued in a joint order by the Minister responsible for finance and the supervising Minister.

3 — With the exception of State budget allocations and the revenue and expenditure account balance originating from State budget allocations, public higher education institutions may deposit any income they amass in any banking institution.

4 — The income referred to in the final part of the previous point is managed by public higher education institutions through their respective private budgets, according to criteria they have established.

5 — The financial applications of each public higher education institution must be effected via the treasury, except for those which do not exceed 25% of the total amount.

6 — The principle of non-appropriation of revenues does not apply to:

- a) Income from the State budget destined for funding expenses or specific projects;
- b) Income which, under the terms of the law or contract, is designated to cover specific expenses.

Article 116

Tax exemption

Public higher education institutions and their organisational units are exempt from taxes, tariffs, costs, sundry charges and stamp duty, under the same terms as the State.

Article 117

Sole auditor

Financial and asset management of public higher education is controlled by a sole auditor appointed from among statutory auditors or chartered accountant companies in a joint order issued by the Minister responsible for finance and the supervising minister and on the recommendation of the Rector or President, and their powers are established within the framework law for public institutions.

Article 118

Financial control

1 — Notwithstanding the mandatory audits undertaken by the State, public higher education institutions must also ensure that external audits are carried out by recognised auditors whom they contract for this purpose.

2 — External audits take place every two years, one during the first half of the Rector or President's mandate and the other during the final three months of the same mandate.

3 — The auditors' reports referred to in the previous points, together with the annual reports of the sole auditor, are sent to the Minister responsible for finance and to the supervising Minister.

Part II
Staff

Article 119

General principles

1 — Each public higher education institution must have the necessary human resources to enable it to carry out its mission, notwithstanding the contracting of any external services.

2 — Public higher education institutions are responsible for the recruitment and promotion of their teaching staff and researchers, in addition to other staff, as prescribed by law.

3 — The framework for teaching and research staff is defined under special law.

Article 120

Staff scales

1 — The scales for teaching, research and other staff in each public higher education institution are established in an order issued by the supervising Minister.

2 — Scale points for the different categories, in the case of teaching and research staff, and career structures and categories in the case of other staff are established by each public higher education institution, notwithstanding the fact that the supervising Minister may establish general rules on the matter in an official order.

Article 121

Limits to appointments and contracts

1 — The maximum number of teachers, research and other staff that each public higher education institution may appoint or contract, regardless of the applicable legal framework, is established in an order issued by the supervising Minister applying the criteria established by Decree-Law.

2 — The contracting of staff on an individual contract basis whose costs are met entirely from the institution's own income is not subject to limitations, specifically of

the type referred to under the previous point, including contracts associated with research and development projects of any type.

Article 122

Duration of individual fixed-term employment contracts

The maximum duration of individual fixed-term employment contracts for research and development projects is established by special law.

Article 123

The administrator

1 — Public higher education institutions have an administrator chosen from amongst individuals with knowledge and experience of management, who has the power to manage the institution and coordinate its services, under the authority of the Rector or President.

2 — The administrator is freely appointed and dismissed by the Rector or President.

3 — The administrator is a member of the Management Board, with powers that are established by the statutes and delegated by the rector or president.

4 — The maximum term of office for administrators may not exceed ten years.

Part III

Specific regulations for managerial autonomy in public university education institutions

Article 124

Autonomy of assets

Intangible assets from the State private sector which have been transferred to public university education institutions and which are no longer necessary to their mission and areas of responsibility are incorporated into the State's assets on the basis of a joint dispatch from the Minister responsible for finance and the supervising Minister for the institution.

Article 125

Staff and staff costs

1 — Public university education institutions freely manage their human resources, taking the needs and the principles of good management into account, in strict compliance with budgetary resources. The restrictions established in Article 121 point 1 are not applicable.

2 — For the purposes of supervising staff costs, public university education institutions submit the following on a quarterly basis to the Minister responsible for finance and the supervising Minister:

- a) Staff costs, including independent contractor agreements and services contracts;
- b) The number of staff admissions to any post and any retirements, rescissions and other forms of terminating binding employment relations;
- c) A justification of any increases in staff costs which do not result from salary upgrades, fulfilment of legal obligations or the transfer of liability from central government.

3 — The information provided under the terms of the previous point must be submitted under the terms established by the Minister responsible for finance.

4 — In the event of any unjustified failure to comply with the obligation of providing the information prescribed in this article and the respective periods of time, up to 10% of each twelfth part of the current State budget allocations may be withheld for each month in arrears.

Part IV
Organisational units

Article 126

Managerial autonomy of organisational units

1 — Schools and organisational research units may be granted administrative and/or financial autonomy under the terms of the statutes of the respective organisation and within the scope established by the statutes.

2 — Financial autonomy for polytechnic institute organisational units is granted in an order issued by the supervising minister and is dependent in compliance with the criteria approved by the Minister in a decree order which will specify the level of the organisational unit's own income.

3 — Whenever justified, in order to manage public higher education institution human and financial resources more efficiently, Rectors and Presidents may:

- a) Reallocate teaching, research and other staff to different organisational units;
- b) Redistribute budgetary resources between organisational units.

4 — The decisions envisaged in the previous point require prior opinion from the General Council.

Article 127

The administrator or secretary of the organisational unit

1 — Schools which have their own bodies and managerial autonomy may, under the terms established in statutes, employ an administrator or secretary, freely appointed and dismissed by the Director or President of the organisational unit.

2 — The duties and powers of the administrator or secretary of the organisational unit are established in statutes or delegated by the Director or President of the organisational unit.

Part V
Student social services

Article 128
Student social services

1 — Each public university and polytechnic institute has a department dedicated to student social services, although various institutions may share the same service.

2 — These services:

- a) Enjoy administrative and financial autonomy under the terms and scope defined by law and in the statutes;
- b) Are subject to supervision by the sole auditor and their accounts are consolidated under those of the higher education institution.

3 — The director of this service:

- a) Is chosen from among individuals with knowledge and experience in management;
- b) Has duties and powers which are established in the statutes and assigned by the Rector or President.

4 — The maximum period of time during which directors of this service hold office may not exceed ten years.

5 — The management of student services such as canteens and residences may operate as concessions on the decision of the Management Board of the public higher education institution in consultation with the respective student union associations.

6 — In other public higher education institutions, the work of the student social services may be provided by a university or polytechnic institute department under terms established in a protocol agreed between the two institutions.

CHAPTER VI

Public higher education institutions which are foundations

Article 129

The creation of a foundation

1 — Following a duly justified proposal from the Rector or President approved by an absolute majority of members of the General Council, public higher education institutions may request alteration of their status to foundations governed by private law.

2 — The transformation of an institution into a foundation governed by private law should be justified on the basis of the advantages of adopting this managerial model and legal framework for the pursuit of its objectives.

3 — The proposal should be supported by a study of the implications of this institutional change for the organisation, management, financing and autonomy of the institution or organisational unit.

4 — After the government has agreed to this institutional change, an agreement is signed with the entity which is to be the object of the transformation which covers the institution's plan, the development programme, the statutes of the foundation, the basic organisational structure and the transitional process, in addition to the circumstances under which it may return to non-foundation status, namely through the possibility of defining an initial operational period that is subject to specific evaluation.

5 — A school, in exceptional circumstances, may request from the government under the terms established by that same government, to be transformed into a public foundation governed by private law.

6 — The transformation of a school into a foundation may occur within the framework of creating a larger entity with the characteristics of a consortium which includes the foundation, its original institution or its schools and may eventually incorporate other education and research and development institutions, regardless of its legal status.

7 — This request must be accompanied by:

- a) A study of the implications of this institutional change on organisation, management, finance and autonomy;
- b) The consortium plan;
- c) The opinion of the institution.

8 — Notwithstanding the provisions contained in Articles 42 and 44, the consortiums referred to in point 6 may adopt the title of university or polytechnic institute, respectively.

9 — This institutional change may also lead to the creation of a new institution resulting in the recomposition of the organisational units of various public or private higher education institutions and public or private research and development institutions.

10 — In the event of the situation referred to in the previous point, the creation of a new institution may be the result of a government initiative, with the agreement of the institutions involved, or result from their own initiative.

11 — The creation of a foundation may also be decided by the government, observing the provision contained in point 3 when this involves the creation of a new institution that is not the result of the transformation of a former institution.

12 — Foundations are created by Decree-Law, which also approves their statutes.

Article 130

Foundation assets

1 — The assets of a foundation consist of the assets of the higher education institution in question or, in the case of an organisational unit, the assets of the institution to which its mission is specifically linked, under the terms established in the legislation that led to it being created.

2 — The State may contribute supplementary resources to a foundation's assets.

3 — During or after the creation of a foundation, other entities may also contribute to its assets.

Article 131

Administration of a foundation

1 — A foundation is administered by a council of trustees consisting of five individuals of exceptional merit with professional experience recognised as particularly relevant.

2 — Trustees are appointed by the government on the recommendation of the institution.

3 — The office of trustee is not compatible with any other simultaneous binding employment relations with the institution.

4 — Trustees have a five-year mandate which may be renewed once only and may not be dismissed by the government without due cause.

5 — When the council of trustees is initially formed, the mandate of two of the members, chosen at random, lasts for only three years.

6 — The foundation has a sole auditor, to whom the provision in Article 117 applies.

Article 132

Autonomy

1 — Public higher education institutions with the status of foundations enjoy autonomy under the same terms as public higher education institutions, with any due alterations resulting from their status.

2 — The establishments have their own statutes, approved by the foundation's council of trustees and proposed by an assembly formed as described in Article 172.

3 — The statutes may be subject to government ratification, under the same terms as the statutes of public higher education institutions.

4 — The establishment's bodies are responsible for exercising disciplinary powers over teaching and research staff and students under the same terms which apply to public higher education institutions.

5 — The provision contained in Article 116 also applies to public higher education institutions which have the status of foundations.

Article 133

The bodies of the establishments

1 — The bodies of higher education establishments are selected under the same terms and have the same composition and powers as those prescribed to the various public higher education institutions, with any necessary alterations and include the exceptions described in the following points.

2 — The council of trustees is responsible for:

- a) Appointing and dismissing the Managerial Board on the recommendations of the Rector, Director or President;
- b) Ratifying decisions of the General Council on the appointment or dismissal of the Rector, Director or President;
- c) Exercising the powers referred to in paragraph h) of Article 82, point 2;
- d) Ratifying decisions of the General Council referred to in Article 82, point 2, paragraphs a), b), d), e) and f).

Article 134

Legal framework

1 — Foundations are governed by private law, specifically with regard to their financial assets and staff management, apart from the exceptions established in the previous points.

2 — The system of private law does not compromise the application of constitutional principles affecting public administration, namely the pursuit of public interest and the principles of equality, impartiality, justice and proportionality.

3 — With regard to managing human resources, the institution may create career structures for its own teaching, research and other staff which, in general, parallel the teaching and research staff categories and qualifications of the various public higher education establishments.

4 — The provision contained in the previous point is understood not to compromise the public sector regulations that are applicable to employees and agents in higher education institutions before they are transformed into foundations.

Article 135

Access and admission

Public higher education institutions which have the status of foundations select their students by applying the criteria and procedures established in law.

Article 136

Funding

1 — State funding for the institutions described in this chapter is defined by means of pluriannual contracts lasting not less than three years, according to the objectives to be reached.

2 — The contracts referred to in the previous point are agreed between the institution and the State, represented by the Minister responsible for finance and the supervising Minister.

3 — The regulations established by law for State funding for the various public higher education institutions apply, including any necessary alterations, to the higher education institutions referred to in this chapter.

4 — The system for student tuition fees is established by the law regarding public higher education establishments.

Article 137

Student social services

Students in the higher education institutions referred to in this chapter are covered by student social services under the same terms as students in other public higher education institutions.

SECTION IV

Organisation and management of private higher education institutions

CHAPTER 1

Initial provisions

Article 138

Organisational principles

1 — The founding body organises and manages its respective educational establishment, specifically within the spheres of economic and financial management.

2 — Those holding office on supervisory bodies of the founding body may not hold office in other organisations of the educational establishment.

3 — The founding body is responsible for exercising disciplinary power over teachers and other staff and over students, after issuing an opinion in advance by the educational establishment, and this power may be assigned to the bodies of the establishment.

Article 139

Tuition fees and other charges

Tuition fees and other charges payable by students for attending educational establishments are established by the founding body on the recommendation of the managerial bodies of the establishment and must be announced and suitably publicised in all respects before students enrol.

CHAPTER II

Statutes

Article 140

Statutes and regulations

1 — The founding body of the private higher education establishment must be provided with statutes which, in terms of the law, define:

- a) Their objectives;
- b) Their scientific, cultural and pedagogical plan;
- c) Their organisational structure;
- d) Their chosen form of management and organisation;
- e) Other essential aspects of their organisation and operation.

2 — The statutes must consider the involvement of teaching staff and students in the management of the educational establishment, specifically involving teaching staff in scientific and pedagogical matters and students in pedagogical matters.

3 — Under the terms of the statutes, the various bodies of the educational establishments approve their respective internal regulations.

Article 141

Statutory reservations

1 — In addition to those statutes described under the previous point, the statutes of each educational establishment are obliged to state the rules governing relations between the founding body and the educational establishment. This is in addition to the various essential aspects of its organisation and operation, namely the way in which those holding official posts on its various bodies are appointed and the length of their mandate.

2 — With regard to the provision of education, the statutes must include a definition of the registration, enrolment, attendance and assessment system for students, as well as the rights and duties of students.

3 — The statutes of educational establishments include, by law, the career scheme for the teaching staff of each educational establishment, specifying the rights and duties of teaching staff, their career structure and the regulations governing assessment and promotion.

Article 142

Registration and publication of statutes

1 — The statutes of private higher education establishments and any alterations to these statutes may be subject to verification that they comply with the law and any other regulations, the constituent instrument of the founding body and the certificate of official State recognition in the establishment for future registration under the terms of this law.

2 — The founding body requests that the statutes and any alteration to the be registered, supporting such cases with all the relevant documents, notwithstanding the fact that the supervising minister may request clarification or additional documents.

3 — After registration, the founding body publishes the statutes of the educational establishment in the Second Series of the *Diário da República* (Official State Gazette), together with any subsequent alterations.

CHAPTER III

Autonomy of private higher education establishments

Article 143

Aspects of autonomy

1 — Private higher education establishments enjoy cultural, scientific and pedagogical autonomy.

2 — The provisions contained in Articles 71 to 75 additionally apply to private higher education establishments, with any due alterations.

3 — With regard to disciplinary autonomy, the institutions draw up the necessary regulations in accordance with the principles and procedures established under the appropriate legislation.

4 — Equally, each institution must establish disciplinary procedures and sanctions within its student regulations.

CHAPTER IV

Organisation

Article 144

Organisational structure

1 — Private higher education establishments must include the following bodies:

- a) A Rector, in the case of a university or university institute, or President in the case of a polytechnic institute, appointed from among individuals who satisfy the provisions contained in Article 86, points 3 and 4, paragraphs b) and c) as well as point 5;
- b) A Director, President or managerial board, in the case of other higher education establishments;
- c) A Scientific or Technical-Scientific Council and Pedagogic Council, under the terms of Articles 102 and 104.

2 — Except for disciplinary reasons, the dismissal of those holding official posts on the establishment bodies may only take effect at the end of the academic year.

3 — Organisational units, where they exist, must have a Director or President appointed by the founding body, on the recommendation of the rector or president of the establishment.

4 — In addition to those described under the previous point, the statutes may also envisage the existence of other, specifically advisory, bodies.

Article 145

Scientific, Technical-Scientific and Pedagogic Councils

The provisions contained in Articles 102 to 105 for the equivalent bodies in public higher education institutions apply, with the necessary alterations, to the Scientific, Technical-Scientific and Pedagogic Councils of private educational establishments.

Article 146

Involvement of teaching staff and students

1 — The involvement of teaching staff and students in the academic management of private higher education establishments must be ensured by representatives of the teaching staff serving on the Scientific, Technical-Scientific and Pedagogic Councils and student representatives serving on the Pedagogic Council.

2 — The system for participation must also ensure that representatives of the teaching body serving on the Scientific or Technical-Scientific Council are consulted by the founding body and by the Rector, President, Director or President of the organisational unit on matters relating to the administrative management of the educational establishment.

SECTION V

Evaluation and accreditation, supervision, guardianship and responsibilities of higher education institutions

CHAPTER 1

Assessment and accreditation

Article 147

Assessment and accreditation of higher education institutions

1 — Under the terms of their statutes, higher education institutions must establish mechanisms for regular self-evaluation of their performance.

2 — Higher education institutions and their organisational units, in addition to their respective pedagogical and scientific activities, are subject to the national system for accreditation and evaluation as prescribed by law, and must comply with their legal obligations and collaborate with the appropriate authorities.

CHAPTER II

Supervision and inspection

Article 148

Supervision

Higher education institutions are subject to the supervisory powers of the State and must collaborate faithfully and promptly with the appropriate authorities.

Article 149

Inspection

1 — Higher education establishments are subject to inspection by the supervising ministry.

2 — The appropriate departments of the supervising ministry conduct regular inspections of all educational establishments in operation and may be accompanied by specialists in the relevant areas.

3 — Reports of the inspections are submitted to the educational establishment and, in the case of private educational establishments, to the founding body.

CHAPTER III
Guardianship

Article 150
Guardianship

1 — Guardianship of higher education establishments is exercised by the government department responsible for the higher education sector, essentially with the aim of ensuring compliance with the law and in the defence of public interest.

2 — In addition to the specific powers attributed to it under this law, the supervising ministry is responsible for:

- a) Considering and ruling on appeals described in an express legal provision;
- b) Any other acts prescribed under law.

3 — The supervising Minister is also responsible for calling elections for the various bodies of the higher education institutions, in addition to initiating proceedings for the election of Rector or President if the appropriate bodies have not done so in due time.

Article 151
Delegation of powers

The supervising Minister may delegate or sub-delegate powers to the Rectors or Presidents of public higher education institutions.

Article 152
Crisis situations

1 — In the event of any serious institutional crisis in a public establishment that cannot be resolved autonomously, the government, on the basis of an official order issued by the supervising Minister and after consulting the Coordinating Council for Higher Education, may intervene and take suitable measures, including suspending the statutory bodies and appointing an independent individual to manage the institution to the extent and for the time strictly necessary to effect a return to institutional normality and restore self-government of the institution as rapidly as possible.

2 — This intervention may not affect the cultural, scientific and pedagogical autonomy of the institution or threaten academic freedom or the freedom to teach and learn within the establishment.

Article 153

Compulsory closure

1 — The following constitute grounds for the government to rule on the compulsory closure of higher education institutions:

- a) Failure to satisfy the necessary requirements for their operation;
- b) In the case of private higher education establishments, non-verification of any presuppositions underlying official State recognition;
- c) An exceptionally negative evaluation of the institution;
- d) Managing the institution under seriously deteriorating institutional or pedagogical conditions.

2 — The procedure for closing the establishment is carried out by instruction from the appropriate departments of the supervising ministry and takes place following the issue of an official order by the supervising Minister published in Series II of the *Diário da República* (Official State Gazette), establishing the conditions under which it should be carried out.

3 — The ministerial decision must be preceded by a hearing of those responsible for the management of the educational establishment and, in the case of private establishments, the founding body, on pain of annulment.

4 — The compulsory closure of an educational establishment may be solicited via administrative and police authorities and is communicated in the relevant order.

5 — The compulsory closure of an organisational unit or authorised study cycle in one of the situations described in point 1 may also be decided.

Article 154

Preventive measures

1 — In the event of any failure by institutions to fulfil the provisions contained under this law, or the occurrence of any serious disruption to the normal operation of an educational establishment, the supervising Minister may:

- a) Issue a formal warning to the institution or founding body, which may be accompanied by establishing a fixed period of time in which the situation must be restored to normal;
- b) Decide on the temporary suspension of study cycles;
- c) Suspend teaching activities in the institution for a period of not more than three months.

2 — The implementation of the measures described in the previous point must be preceded by a hearing of the institution or founding body.

3 — The provision in point 1 does not compromise the provisions contained in Articles 152 and 153 or the imposition of sanctions prescribed by law.

Article 155

Conversion

1 — When a higher education institution no longer meets the requirements described in Articles 39 to 46, it may be converted, on the basis of an order issued by the supervising minister, into a higher education institution of a different nature, if it fulfils the respective requirements, and it will be obliged to alter its statutes and, if necessary, its name.

2 — The procedure referred to in the previous point includes the drafting of a report by the appropriate department of the supervising ministry and a prior hearing of the bodies in question.

Article 156

Safeguarding student interests

In the event of the compulsory closure of an educational establishment, organisational unit or study cycle, the supervising ministry determines any provisions necessary to preserve the interests of students.

CHAPTER IV

Liability

Article 157

Liability of higher education institutions

1 — Higher education institutions are liable for any damage caused to third parties by those holding official posts in their organisations, their employees or agents, under the law, notwithstanding the principle of academic and scientific freedom.

2 — Those holding office, employees and agents of public higher education institutions are liable in civil, disciplinary, financial and criminal terms for any infractions ascribed to them in general terms.

Article 158

Court of Auditors

Higher education institutions are subject to the jurisdiction of the Court of Auditors, under the terms of general law.

Article 159

Annual report

Higher education institutions approve and publish an annual consolidated report of their activities, accompanied by the opinions and deliberations of the appropriate bodies, which focus specifically on:

- a) Extent of compliance with the strategic plan and annual plan;
- b) Realisation of the objectives that have been established;

- c) The efficiency of administrative and financial management;
- d) Developments in assets and finances and the sustainability of the institution;
- e) Movements between teaching and non-teaching staff;
- f) Developments in admissions and attendance of the study cycles administered;
- g) Degrees and diplomas awarded;
- h) Employability of graduates;
- i) Internationalisation of the institution and the number of foreign students enrolled;
- j) External services rendered and partnerships established;
- l) Procedures for self-evaluation, external evaluation and results.

Article 160

Accounts

1 — Public higher education institutions must present an annual consolidated financial report which includes all organisational units.

2 — The report referred to in the previous point must include an explanation of cost structures and differentiate between teaching and research activities in the various types of career structures in order to guarantee best practices in accounting and registering cost structures for education and research institutions.

Article 161

Transparency

1 — Higher education institutions must provide on their website all the information required for a full understanding of the study cycles offered, degrees awarded, research undertaken and services provided by the institution.

2 — The information made available must compulsorily include self-evaluation and external evaluation reports on the institution and its organisational units and on study cycles.

Article 162

Information and publication

1 — Higher education establishments must refer to the exact contents of the official State recognition, authorisation for study cycles and recognition of degrees in any information material designated for the public and any related publication.

2 — Accurate and adequate information must be provided on the following:

- a) The mission and objectives of the institution;
- b) Statutes and regulations;
- c) Organisational units;
- d) Current study cycles, degrees awarded and curriculum structure;
- e) The teaching body, employment status within the institution and provision of services;
- f) The system of academic assessment;
- e) The results of accreditation and assessment of the institutions and their study cycles;
- h) The rights and duties of students, including the tuition fees and charges they must pay;
- l) Student social services;
- j) Records of student passes and failures, together with employability resulting from study cycles administered;
- l) Any other elements prescribed under the law or in the statutes.

CHAPTER V

Charges

Article 163

Charges

1 — Charges are payable by higher education institutions for the following procedures:

- a) Recognition of public interest in private higher education establishments;
- b) Any other acts prescribed by law.

2 — The amount payable is established by regulatory legislation.

CHAPTER VI

Administrative offences

Article 164

Specific offences

1 — The following infractions are punishable by a fine ranging from EUR 10,000 to EUR 100,000, or from EUR 1,000 to EUR 5,000 according to whether they are applied to a collective body or individual person:

- a) Any higher education institution or study cycle operating as a franchise;
- b) Any private higher education establishment operating without prior official State recognition;
- c) An operational higher education institution which subsequently fails to meet the requirements established for its foundation and operations;
- d) Organisational units operating outside the main campus of the higher education institution which do not fulfil the respective requirements;
- e) Public higher education schools operating without ministerial approval;
- f) Study cycles leading to the awarding of degrees operating without prior registration;
- g) The application of statutes that have not been ratified;
- h) Violation of standards relating to the composition of institutional governmental and managerial bodies and Scientific or Technical-Scientific and Pedagogic Councils;
- i) Failure to publish the annual report referred to in Article 159.

2 — The following infractions are punishable by a fine ranging from 2,000 Euros to 20,000 Euros or 500 Euros to 5,000 Euros, depending on whether they apply to a collective body or individual person:

- a) Use of an unregistered name or use of a name legally reserved for a particular higher education institution by another type of institution;

- b) Offences against the regulation on conflict of interests described in Article 106 and the exercise of any duties in a higher education institution which violate the regulations on incompatibilities and impediments contained in other laws and in statutes;
- c) Refusal to collaborate with the appropriate authorities in the external assessment of higher education establishments;
- d) Refusal or obstruction of inspection by the supervising ministry;
- e) Refusal to collaborate with, or obstruction of, State supervision;
- f) Failure to publish the information referred to in Article 162;
- g) Providing false information to the supervising ministry, or incomplete information liable to result in erroneous conclusions identical or similar in effect to those which would have been drawn from false information on the same subject.

3 — Intent and negligence are punishable.

Article 165

Failure of duty

Whenever an infraction is the result of a failure of duty, the payment of a fine or any additional sanction does not absolve the guilty party from carrying out this duty, whenever possible.

Article 166

Additional sanctions

In addition to the fines described in Article 164, the following additional sanctions may be imposed:

- a) Revocation of recognition;
- b) Withdrawal of the right to subsidies or benefits granted by public services or entities;
- c) Seizure and loss of the object of the infraction and the economic benefits obtained from it.

Article 167

Competence

1 — The appropriate department of the supervising ministry is responsible for dealing with administrative offences described in this law.

2 — The supervising Minister is responsible for ruling on the case.

3 — During investigation or instigating a case, the appropriate department of the supervising ministry may request the police authorities and any other public services or authorities for full collaboration or assistance in whatever is deemed necessary to pursue the case.

Article 168

Proceeds of fines

The proceeds of fines revert to the Higher Education Social Services Fund.

Article 169

Subsidiary law

The general regulations for administrative offences may additionally be applied.

SECTION VI

The Coordinating Council for Higher Education

Article 170

The mission of the Coordinating Council for Higher Education

The mission of the Coordinating Council for Higher Education is to advise the member of the government responsible for higher education within the sphere of education policy.

Article 171

Composition, management and powers of the Coordinating Council for Higher Education

The composition, management and powers of the Coordinating Council for Higher Education are defined in its own legislation.

SECTION VII

Transitional and final provisions

CHAPTER 1

Transitional provisions

Article 172

New statutes

1 — Within a period of eight months after this law comes into effect, higher education institutions must review their statutes in order to ensure that they comply with the new legal framework.

2 — In the case of public higher education institutions, the new statutes are approved by an assembly set up for this purpose, consists of the following:

- a) The Rector or President, who presides over the assembly;
- b) Twelve representatives of professors and career researchers and other full-time Doctorate teaching and research staff;
- c) Three student representatives;
- d) Five outside individuals of recognised merit who have knowledge and experience relevant to the institution.

3 — The election and co-opting of members takes place under the terms of the provisions contained in Article 81, points 3 to 6 in accordance with regulations approved by the Senate or General Council under the legal system in force on the date on which this law comes into effect.

4 — The assembly may appoint a commission charged with planning the statutes for discussion and approval by the assembly.

5 — In the process of drawing up the statutes, the assembly consults the current bodies of the institution and its organisational units.

6 — Statutory regulations must be approved by an absolute majority of members of the assembly, as must the final general approval.

7 — In the case of private higher education institutions, the new statutes are approved by the appropriate organ of the founding body, on the recommendation of the various bodies of the educational establishment.

8 — The new statutes must be ratified and published under the terms described under this law.

9 — The Rector or President is responsible for promoting the implementation of the new organisational and managerial model resulting from this law.

10 — In the event of any unjustifiable failure to approve the statutes within the established period of time, it will be deemed, for all due legal effects, that the institution is in a deteriorating situation under the terms of Article 153.

Article 173

Organisational units

1 — In the process of drawing up and approving the statutes, public higher education institutions must proceed with the rationalisation of their organisational units, namely by resorting to any mergers or closures deemed appropriate.

2 — In the rationalisation process referred to in this article, institutions must respect the general guidelines approved by the government for rationalising the network.

Article 174

Renewal of mandates

1 — Members of the new institutional bodies must be either elected or appointed, according to circumstances, within four months of the statutes being published, at which time the mandate of the current bodies will end.

2 — Those holding mandates which end after the publication of the new statutes will continue to exercise their duties until the new bodies take office under the terms of the previous point, and their mandate will be extended for the necessary period of time.

3 — The Rectors or Presidents of institutions and the Directors or Presidents of organisational units whose mandates have not ended when the statutes are published may complete them, with the status and powers prescribed under this law.

4 — Those holding official posts cannot apply for a successive new mandate under the terms of this law if they were unable to do so under the laws and statutes in force until that time as a result of having exceeded the permitted number of mandates.

5 — Those exercising duties which, under the terms of this law, may become incompatible with other duties may complete the incompatible mandate within four years of the date on which this law comes into effect.

Article 175

Assets of public higher education institutions

During the 18 months following the publication of this law, public higher education institutions must proceed with updating the inventory of their estate and State assets allocated to them, and justify the need for these assets for institutional purposes.

Article 176

Ongoing procedures for official State recognition

With the publication of this law, all procedures for official State recognition in private higher education institutions expire and must be renewed in compliance with the requirements established under this law.

Article 177

Transfer to the status of foundation

1 — Within three months after this law comes into effect, the assembly referred to in Article 172, point 2 may, on the basis of a decision made by an absolute majority of its

members, request transfer to the status of a foundation university under the terms of Article 129.

2 — On submission of the request referred to in the previous point, calculation of the period of time referred to in Article 172, point 1 is suspended.

3 — The Directors or Presidents of organisational units may promote the founding of an ad hoc assembly set up as established in Article 172, point 2 in order to decide, on the basis of an absolute majority vote, within a period of three months after this law takes effect, on submission of a proposal to change the organisational unit under the terms prescribed in Article 129.

Article 178

Accumulation of teaching duties

1 — Until the alteration in the statutes of the career structure for teaching staff, the limit referred to in Article 51, point 1 is six teaching hours per week.

2 — Until the implementation of the provisions in this law has been evaluated, and solely for the purposes of the provision contained in Article 49, assistant professors and professors/coordinators in the polytechnic career structure recruited through public competition based on tests under the terms of the Statutes of Polytechnic Higher Education Teaching Staff are considered to hold the title of specialist.

3 — The provision contained in Article 1 point 3 does not compromise the application of this law to higher education institutions which offer arts education and distance learning in any areas which are not incompatible with their specialisation.

CHAPTER II

Article 179

Special public higher education

In the case of public higher education institutions, this law does not compromise the special regulations that exist for military and police higher education institutions and the Open University, notwithstanding its subsidiary application.

Article 180

The Catholic University and other canonical establishments

This law applies to the Portuguese Catholic University and the various other higher education institutions established by canonical bodies, notwithstanding any specificities arising out of the Concordat between Portugal and the Holy See.

Article 181

Access to higher education

The criteria establishing the subjects for entrance tests to determine admission to undergraduate degree study cycles or integrated Masters cycles in a particular area, are approved by a decree order issued by the supervising ministry, on the recommendation of the National Committee for Access to Higher Education whenever justified by national policy on the training of human resources and the overall coherence of the system.

Article 182

Legislation revoked

1 — The following legislation is revoked:

- a) Law no. 108/88 dated 24 September, 1988 (university autonomy);
- b) Law no. 54/90 dated 5 September, 1990 (status and autonomy of polytechnic higher education establishments), amended by Laws no. 20/92 dated 14 August, 1992 and no. 71/93 dated 26 November;

- c) Law no. 1/2003 dated 6 January, 2003 (Legal Framework for Development and Quality in Higher Education), amended by Decree-Law no. 74/2006 dated 24 March, 2006;
- d) Article 17 of Law no. 37/2003 dated 22 August, 2003 (establishing the basis for the funding of higher education), amended by Law no. 49/2005 dated 30 August, 2005;
- e) Decree-Law no. 293/90 dated 21 September, 1990 (allowing for the appointment of Vice-Rectors by Rectors of universities);
- f) Articles 12 to 17 of Decree-Law no. 129/93 dated 22 April, 1993 (establishing the principles of the social services policy for higher education);
- g) The Statutes for Private and Cooperative Higher Education, approved by Decree-Law no. 16/94 dated 22 January, 1994 amended by ratification by Law no. 37/94 dated 11 November, 1994 Decree-Law no. 94/99 dated 23 March, 1994 and Decree-Law no. 74/2006 dated 24 March, 2006;
- h) Decree no. 21 160 dated 11 May, 1932 (standardising and compiling in one single act all the legal provisions referring to academic studies), together with Decree-Law no. 44 357 dated 21 May, 1962 and Decree-Law no. 27/71 dated 5 February, 1971;
- i) Decree-Law no. 24/94 dated 27 January, 1994 (regulating the procedure for establishing polytechnic higher education establishments), rectified by Declaration of Amendment no. 38/94 dated 31 March, 1994;
- j) Decree-Law no. 252/97 dated 26 September, 1997 (adopting development measures and extending the law on university autonomy in terms of staff, budget and asset management).

2 — The various regulations which contradict the provisions of this law are annulled.

3 — It is understood that the revocation referred to in paragraph j) of point 1 does not compromise the application of the provision contained in Article 3 points 2 and 3 of Decree-Law no. 252/97 dated 26 September, 1997 when this has not yet occurred.

4 — As the legislation regulating the procedure for the official State recognition in private higher education establishments has not yet been published, the provisions

contained in the Statutes for Private and Cooperative Higher Education remains in force in all matters which do not contradict this law.

Article 183

Adjustments

1 — Adjustments to the requirements referred to in Articles 47 and 49 must be effected by public and private higher education establishments by the start of the academic year following the end of the 18-month period calculated from the date on which this law comes into effect, on pain of authorisation for the study cycles in question being revoked.

2 — In the case of polytechnic education institutions, the 18-month period referred to in the previous point is calculated from the date on which the Decree-Law regulating the awarding of the title of specialist comes into effect.

3 — Private higher education institutions and their founding bodies must proceed with adjustments with regard to this law within 18 months after it comes into effect, on pain of recognition of public interest and authorisation for study cycles being revoked.

Article 184

Coming into effect

1 — This law comes into effect 30 days after it is published, with the exception of areas which are dependent upon the approval of new statutes for higher education institutions and the coming into operation of new bodies.

2 — The new system for governing bodies commences:

- a) When the new Rector or President takes office, or
- b) Within five days after the date on which the process for the constitution and taking up of office of the General Council is concluded, in the absence of any declaration of the resignation of the rector or president if covered by Article 174, point 3.

Article 185

Evaluation of implementation

The implementation of this law will be evaluated five years after it comes into effect.

Approved on 19 July 2007.

The President of the Assembly of the Republic, Jaime Gama.

Enacted on 23 August 2007.

To be published.

The President of the Republic, Aníbal Cavaco Silva.

Countersigned on 23 August 2007.

The Prime Minister, José Sócrates Carvalho Pinto de Sousa.