

# ELECTORAL LAW FOR ELECTIONS TO THE EUROPEAN PARLIAMENT

## **Law no. 14/87 of 29<sup>th</sup> April**

Pursuant to articles 164, d) and 169 of the Constitution of the Portuguese Republic, the Assembly of the Republic decrees the following:

### **ARTICLE 1 (Applicable Legislation)**

The election of the Members of the European Parliament elected in Portugal is governed by this law, by the applicable Community rules and, in questions not covered by them or in which the said rules refer back to the national legislations, by the rules, after the necessary adaptations, that govern the election of members of the Assembly of the Republic.

### **ARTICLE 2 (Electoral College)**

Portugal consists of one single electoral constituency, which has its seat in Lisbon and which corresponds to one single Electoral College.

### **ARTICLE 3 (Right to Vote)**

1. Full voting rights to elect the Members of the European Parliament for Portugal are held by:

- a. Portuguese citizens registered in the register of electors within Portugal;
- b. Portuguese citizens registered in the Portuguese register of electors who are residents of European Union Member States and do not choose to vote in their state of residence;
- c. Citizens of European Union Member States who are not Portuguese nationals and are registered in the Portuguese electoral register.

2. Those citizens referred to in sub-paragraph b) of the preceding article exercise the right to vote by postal ballot pursuant to the terms of the same legislation, after the necessary adaptations have been made, that applies to the election of the members of the Assembly of the Republic.

ARTICLE 4  
**(Right to Stand for Election)**

Those citizens referred to in the preceding articles who are not disqualified have the right to stand for election regardless of their place of residence.

ARTICLE 5  
**(Ineligibility)**

The following persons cannot be elected to the European Parliament:

- a) The President of the Republic;
- b) The Prime Minister;
- c) The Civil Governors and Vice-Civil governors while still in office;
- d) Those citizens effected by any of the general disqualification rules included in the legislation that applies to the election of the Members of the Assembly of the Republic;
- e) Those who perform diplomatic functions on the date of the registration of candidates, if they not covered by the preceding sub-paragraph;
- f) Judges still in office who are not covered by sub-paragraph d);
- g) The members of the National Electoral Committee;
- h) Those citizens disqualified by the applicable Community rules.

ARTICLE 6  
**(Incompatibility)**

1. The capacity of Member of the European Parliament is incompatible with tenure of the following offices:

- a) Member of the Government;
- b) Government Ministerial Representative;
- c) Member of the Supreme Magistrates' Council;
- d) Attorney-General of the Portuguese Republic;
- e) Ombudsman and Deputy Ombudsman;
- f) Member of the government bodies of the Autonomous Regions;
- g) Governor, member of the Government and member of the Legislative Assembly of Macao;
- h) Civil Governor and Vice-Civil Governor;
- i) Mayor and full-time Alderman of a municipality;
- j) Chairman of the Economic and Social Council;

- l) Member of the High Authority for the Media, of the National Authority for the Protection of Computerised Personal Data and of the Commission for Public Access to Administrative Documents\* ;
- m) Administrator of a public company or institution and member of the administration of a public institution;
- n) Member of the board of directors of an exclusively state-owned joint stock company or one in which the state is the majority shareholder, regardless of the form of appointment.

2. Tenure of the following offices is likewise incompatible with the capacity of Member of the European Parliament:

- a) Offices relating to the exercise of diplomatic functions for the representation of the Portuguese State abroad when held by non-civil servants;
- b) Those referred to in Decree-Law 196/93 of 27<sup>th</sup> May, article 2;
- c) Those referred to in the Community Act of 20<sup>th</sup> September 1976, article 6, 1 and not covered by the legislation referred to in the preceding subparagraph.

3. The capacity of Member of the European Parliament is also incompatible with:

- a) The offices of civil servant or government official or functionaries of other state-owned legal persons, but without prejudice to persons in unpaid teaching functions in higher education and in research activity;
- b) Tenure of a seat as Member of the Assembly of the Republic.

#### ARTICLE 7 (Setting Date of the Election)

The President of the Republic, having consulted the Government and taking into account the applicable community legislation, announces the date for the election with at least **60 days' prior notice**.

#### ARTICLE 8 (Structure of the Lists)

The lists submitted for election must contain indication of first-choice candidates in a number equal to the number of MEPs to be elected, plus no less than three and no more than eight substitutes.

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\* Translator's Note: As the Portuguese alphabet does not feature a "K" this letter was left out in this translated list to ensure exact correspondence between the original and the translated text for reference purposes.

ARTICLE 9  
**(Registration of Candidates)**

1. The lists of candidates must be deposited with the Constitutional Court, a section of which, appointed by means of a draw, is responsible, for performing the functions allocated to the responsible district judge by the legislation governing the elections to the Assembly of the Republic.

2. Candidates and parties have the right to appeal to the Constitutional Court, in a plenary sitting, after the final decisions of the aforementioned section on the registration of candidates have been announced.

ARTICLE 9 - A  
**(Particular Requirements for the Registration of Candidates)**

1. While registering a candidature, a candidate who is not a Portuguese citizen has to attach a formal declaration specifying:

- a) His/her nationality and address of residence in Portuguese territory;
- b) That he/she is not simultaneously a candidate in another Member State;
- c) His/her registration in the electoral register of the local council or voting constituency in the Member State of origin in which he/she was last registered, if such a registration exists.

2. The candidate must likewise submit a certificate issued by the responsible administrative authorities in the Member State of origin documenting that he/she is not disqualified from standing for election in that Member State or that the said authorities have no knowledge of any disqualification of any kind.

ARTICLE 9 – B  
**(Polling Districts)**

The division of the electors voting in one polling district may not result in sections consisting exclusively of non-national electors.

ARTICLE 10  
**(Election Campaign)**

1. The legislation applicable to the election of Members of the Assembly of the Republic applies likewise to the conduction and discipline of the election campaign for Members of the European Parliament, including the respective right to party political broadcasting. The duration of the campaign is shortened to twelve days.

2. If the two elections take place on the same day, the duration of the campaign for the election to the European Parliament is equal to that fixed for the campaign for the election to the Assembly of the Republic.

3. Should the scenario described in the preceding paragraph be the case, the party political broadcasts for the European Parliament election campaign are aired at different times to those fixed for the broadcasts for the Assembly of the Republic election campaign in terms to be determined by the National Electoral Committee.

#### ARTICLE 11 **(Ballot Papers)**

1. When an election to the European Parliament coincides with other elections the respective ballot papers shall be of different colours, whereby the National Electoral Committee, after consulting the Technical Secretariat for Electoral Process-Related Matters, shall define and make public the ballot paper colours.

2. Pursuant to the same terms, the colours of the envelopes used for postal voting in each of the electoral acts shall be different.

#### ARTICLE 12 **(Establishment of the Results)**

1. Establishing the results of the election in each district in continental Portugal and each autonomous region is the responsibility of an intermediate establishment committee to which the rules laid down in the legislation governing the election of Members of the Assembly of the Republic, with the necessary adaptations, apply.

2. An intermediate establishment committee is set up in Lisbon to determine the results of the voting referred to in article 3, paragraph 2.

3. Establishment the overall results of the election and announcing the names of the elected candidates is the responsibility of a committee for general establishment, which begins its work at 09:00 a.m. on the 15<sup>th</sup> day subsequent to that of the election on the premises of the Constitutional Court.

4. The committee for general establishment is made up as follows:

- a) The president of the Constitutional Court, who presides and has the casting vote;
- b) Two judges of the Constitutional Court appointed by means of a draw;
- c) Two professors of mathematics appointed by the Ministries of Education and Culture;
- d) The secretary of the Constitutional Court, who performs the duties of secretary without voting rights.

5. The draw referred to in paragraph 4, sub-paragraph b) above is carried out in the Constitutional Court on a date and at a time fixed by the President thereof.

6. The provisions governing the overall determination of the results of the election of the President of the Republic also apply to the overall determination of the results of the European Parliament election, with the necessary adaptations.

### ARTICLE 13 (Electoral Disputes)

1. Any irregularities that occur in the course of the voting or the partial, intermediate and overall result establishment operations can only be evaluated in a judicial appeal provided that they have been the object of a complaint or protest lodged in writing at the moment of their identification.

2. As far as the irregularities that occur during the course of the voting and the partial result establishment operations are concerned, a judicial appeal can only be brought if this is preceded by an administrative appeal to the intermediate establishment committee on the first day of its functioning.

3. The judicial appeal is brought before the Constitutional Court on the day subsequent to that on which the public notice of the final verified results is posted.

### ARTICLE 14 (Electoral Offences)

In cases of electoral offence in elections to the European Parliament the provisions that punish violation of the rules to which this law refers and, in all remaining cases, the provisions that punish violation of the rules that are equivalent to those in this law and are contained in the legislation applicable to the elections to the Assembly of the Republic apply.

### ARTICLE 14 – A (Multiple Candidature)

1. Simultaneous candidature in elections to the European Parliament in Portugal and in another Member State is punishable with a prison sentence of up to two years and a fine of up to 100 days.

2. Violation of the multiple candidature rule, as described in the preceding paragraph, can entail, as an alternative punishment, disqualification from subsequent elections to the European Parliament.

ARTICLE 14 – B  
**(Multiple Voting)**

Voting simultaneously in the elections to the European Parliament in Portugal and in another Member State is punishable with a prison sentence of up to one year and a fine of up to 50 days.

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ARTICLE 16  
**(National Electoral Committee)**

The functions of the National Electoral Committee also apply in relation to the elections to the European Parliament.

ARTICLE 17  
**(Conservation of Electoral Documentation)**

The Constitutional Court shall conserve the documentation concerning the registration of candidatures for a period of five years beginning on the date of the announcement of the results.

ARTICLE 18  
**(Entry into Force)**

This law comes into force on the day immediately following its publication.

Approved on 28<sup>th</sup> April 1987.

The President of the Assembly of the Republic, *Fernando Monteiro do Amaral*.

Promulgated on 29<sup>th</sup> April 1987.

To be published.

The President of the Republic, MÁRIO SOARES

Countersigned on 29<sup>th</sup> April 1987.

The Prime Minister, *Aníbal António Cavaco Silva*.