

Organisational Law no. 2/2008

of 14 May 2008

First amendment to Organisational Law no. 2/2003 of 22 August 2003 (the Law governing Political Parties)

In accordance with Article 161(c) of the Constitution the Assembly of the Republic hereby decrees the following Organisational Law:

Article 1

Amendment to Organisational Law no. 2/2003 of 22 August 2003

Article 18 of Organisational Law no. 2/2003 of 22 August 2003 now reads as follows:

“Article 18

[...]

1 - ...

a) ...

b) The party does not submit nominations for any elections to the Assembly of the Republic, the European Parliament and local authorities for a period of six consecutive years;

c) [Previous subparagraph (d).]

d) [Previous subparagraph (e).]

e) [Previous subparagraph (f).]

2 - ...»

Article 2

Repeal

The previous subparagraph (b) of Article 18(1), Article 19 and Article 40(2) of Organisational Law no. 2/2003 of 22 August 2003 are hereby repealed.

Article 3

Republication

Organisational Law no. 2/2003 of 22 August 2003 is hereby republished and renumbered in annexe hereto, with its current text and other formal corrections, which annexe forms an integral part of the present Law.

Article 4

Entry into force

The present Law shall enter into force on the day following that on which it is published.

Passed on 26 March 2008.

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

Enacted on 30 April 2008.

Let it be published.

The President of the Republic, Aníbal Cavaco Silva.

Received ministerial counter-signature on 2 May 2008.

The Prime Minister, José Sócrates Carvalho Pinto de Sousa.

ANNEXE

Law governing Political Parties

CHAPTER I

Fundamental principles

Article 1

Political and constitutional function

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

Article 2

Purposes

The purposes of political parties are:

- a) To contribute to the pluralist enlightenment of citizens and to the exercise of their freedoms and political rights;
- b) To study and debate the problems of political, economic, social and cultural life at national and international level;
- c) To present political programmes and prepare election manifestoes on their plans for government and administration;
- d) To submit nominations for democratically representative elected entities;
- e) To criticise, particularly from an opposition standpoint, the activities of the entities of the state, of the autonomous regions, of local authorities and of the international organisations to which Portugal is a party;
- f) To participate in the clarification of questions that are submitted to national, regional or local referendum;
- g) To promote the training and political preparation of citizens for a direct and active participation in democratic public life;
- h) In general, to contribute to the promotion of the fundamental rights and freedoms and the development of the democratic institutions.

Article 3

Nature and duration

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

Article 4

Principle of freedom

1 – Political parties shall be formed freely and without any requirement for authorisation.

2 – Political parties shall pursue their purposes freely and without interference from public authorities, save for the jurisdictional controls provided for in the Constitution and the law.

Article 5

Democratic principle

1 – Political parties shall be governed by the principles of democratic organisation and management and of participation by all their members.

2 – Every member of a political party shall possess equal rights under its articles of association.

Article 6

Principle of transparency

1 – Political parties shall pursue their purposes publicly.

2 – As part of the process of making their activities public, political parties shall obligatorily disclose the following:

- a) Their articles of association;
- b) The identity of their party officers;
- c) Their declarations of principles and their programmes and manifestoes;
- d) Their general activities at national and international level.

3 – Each political party shall notify the Constitutional Court of the identity of its national officers following their appointment, as well as of its articles of association, declarations of principles and programme following their approval and after each amendment, so that the Constitutional Court may take note thereof.

4 – The origin and use of party funds shall be publicised as laid down in the Law governing the financing of political parties and election campaigns.

Article 7

Principle of citizenship

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

Article 8

Safeguarding the democratic constitutional order

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

Article 9

National nature

The formation of political parties with a name or programme objectives which mean that the party possesses a regional nature or scope is not permitted.

Article 10

Rights of political parties

1 – Subject to the terms of the law, political parties have the right:

a) To submit nominations for elections to the Assembly of the Republic, the elected organs of the Autonomous Regions and local authorities, and the European Parliament, and, via those elected and in accordance with each party's number of seats, to take part in the organs that are based on universal direct suffrage;

b) To monitor, inspect and criticise the activities of the organs of the state, of the autonomous regions, of local authorities and of the international organisations to which Portugal is a party;

c) To broadcasting time on radio and television;

d) To form coalitions.

2 – Political parties that are represented in elected organs and are not part of the latter's executive organs shall be recognised to possess the right of opposition with a status to be defined in a special law.

Article 11

Coalitions

1 – Political parties may form coalitions freely.

2 – Coalitions shall last for the duration that is established at the time of their formation, which may be extended or reduced.

3 – Coalitions are not entities that are distinct from the political parties which compose them.

4 – For the purposes provided for by law, the Constitutional Court shall be notified of the formation of coalitions.

5 – Coalitions that are formed for electoral purposes shall be governed by the provisions of electoral law.

Article 12

Names, initials and symbols

1 – Each political party shall have a name, initials and a symbol, which may not be identical or similar to those of any other party that has already been formed.

2 – The name may not be based on the name of a person, or contain expressions that are directly related to any religion or any national institution.

3 – It shall not be possible for the symbol to be confused with, and it may not be graphically or phonetically related to, national symbols or emblems or religious images or symbols.

4 – Coalition symbols and initials shall rigorously reproduce the set of symbols and initials of the political parties that belong to the coalition.

Article 13

Internal or associated organisations

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

CHAPTER II

Formation and disbandment

SECTION I

Formation

Article 14

Registration with the Constitutional Court

Recognition of a political party, with the attribution of a legal persona, and the commencement of its activities are dependent on the party's entry on the register kept at the Constitutional Court.

Article 15

Applications

1 – Applications to register a political party must be made by at least 7,500 registered electors.

2 – The application to register a political party shall be made in writing, to be accompanied by the party's draft articles of association, a declaration of principles or political programme, and its name, initials and symbol, and shall include the full name, identity card number and elector's card number of all the signatories.

Article 16

Registration and publication of articles of association

1 – Once it has accepted a registration, the Constitutional Court shall send an extract of its decision and the political party's articles of association for publication in the *Diário da República*.

2 – The decision provided for in the previous paragraph shall include confirmation that the Constitutional Court has verified the party's legality.

3 – Following a request from the Public Prosecutors' Office, the Constitutional Court may at any time consider any rule in a political party's articles of association and declare it to be illegal.

SECTION II

Disbandment

Article 17

Dissolution

1 – The dissolution of any political party requires a decision taken by its organs in accordance with the applicable rules in its articles of associations.

2 – The decision to dissolve shall determine what is to be done with the party's property, which may only pass to another political party or a not-for-profit association of a political nature, failing which it shall pass to the state.

3 – The decision shall be communicated to the Constitutional Court for the purpose of cancelling the party's registration.

Article 18

Judicial abolition

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

- a) The party is deemed to be armed or military, militarised or paramilitary in nature, or an organisation that is racist or displays a fascist ideology;
- b) The party does not submit nominations for any elections to the Assembly of the Republic, the European Parliament and local authorities for a period of six consecutive years;
- c) The party does not communicate an updated list of its national officers for a period of more than six years;
- d) The party does not submit accounts in three consecutive years;
- e) It is repeatedly impossible to serve or notify the party in the person of any of its national officers, as per the list registered with the Court.

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

CHAPTER III

Members

Article 19

Freedom of membership

1 – No one may be obliged to become or to cease to be a member of any political party or be coerced into continuing to be a member by any means.

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

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

4 – Foreigners and stateless persons who are legally resident in Portugal and who become members of a political party enjoy the participatory rights that are compatible with the status of the political rights they are recognised to possess.

Article 20

Membership

1 – The status of member of a political party is personal and untransmissible and may not grant any rights of a material nature.

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

Article 21

Restrictions

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

- a) Full-time military and militarised personnel on active service;
- b) Agents of the security services and forces on active service.

2 – The following are precluded from engaging in party political activities of a public nature:

- a) Serving judges;
- b) Serving public prosecutors;
- c) Serving career diplomats.

3 – The following may not exercise management functions in parties' political decision-making organs of an executive nature:

- a) Directors-General of the Public Administration;
- b) Presidents of executive organs of public institutes;
- c) Members of independent administrative entities.

Article 22

Internal discipline

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

2 – The applicable organs of each party shall have the competence to apply disciplinary sanctions, which shall always be subject to guarantees of a hearing and a defence and the possibility of making a challenge or an appeal.

Article 23

Citizens elected for parties

Citizens who are elected on political party lists shall exercise their mandates freely under the terms and conditions set out in the statute governing the holders of the office in question and in the rules on the elected organ's modus operandi and the exercise of its competences.

CHAPTER IV

Internal organisation

SECTION I

Party organs

Article 24

National organs

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

- a) An assembly that represents the members;
- b) A political management organ;
- c) A jurisdictional organ.

Article 25

Representative assembly

1 – The representative assembly shall include members who are democratically elected by the party members.

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

3 – Without prejudice to its right to delegate, the assembly shall particularly have the competences to:

- a) Approve the articles of association and the declaration of principles or political programme;
- b) Deliberate and decide on any dissolution of the party or any merger with one or more other political parties.

Article 26

Political management organ

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

Article 27

Jurisdictional organ

Members of the democratically elected internal jurisdictional organ are guaranteed independence and are under a duty of impartiality, and during their term of office may not be members of the political management organ or the party's bureau.

Article 28

Political participation

The articles of association must ensure a direct, active and balanced participation by both women and men in political activities, and must guarantee the absence of gender discrimination in access to party organs and in the election nominations submitted by the political party.

Article 29

Principle of renewal

- 1 – Party offices may not be lifetime appointments.
- 2 – Honorary positions are an exception to the provisions of the previous paragraph.
- 3 – The duration of terms of office of party officers shall be that provided for in the articles of association, which may set limits on successive renewals thereof.

Article 30

Decisions of party organs

- 1 – The decisions of any party organ are subject to challenge before the competent jurisdictional organ on the grounds of a breach of rules laid down in the articles of association or the law.
- 2 – The aggrieved party member and any other party organ may lodge a judicial appeal against the jurisdictional organ's decision under the terms of the law governing the organisation, operation and procedure of the Constitutional Court.

Article 31

Removal from office

- 1 – In the following cases party officers may be removed from office as an accessory sanction imposed in a judicial sentence:
 - a) Conviction by a court of any of the special crimes for which political officeholders may be held liable in the exercise of their functions in organs of the state, the autonomous regions or local government;
 - b) Conviction by a court of participating in associations that are armed or military, militarised or paramilitary in nature, racist organisations, or organisations that display a fascist ideology.
- 2 – Other than in the cases listed in the previous paragraph, removal from office may only occur under the conditions and in the forms provided for in the articles of association.

Article 32

Internal referenda

1 – The articles of association may provide for the holding of internal referenda on political questions that are of importance to the party.

2 – Referenda on questions in relation to which the articles of association attribute exclusive competence to the representative assembly may only be held by decision of the latter.

SECTION II

Elections

Article 33

Voting

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

Article 34

Electoral procedures

1 – Party elections must comply with the following rules:

a) Electoral rolls shall be drawn up and access to them shall be guaranteed within a reasonable period of time;

b) Every candidature shall be given equal opportunities and treated impartially;

c) The proper conduct and validity of electoral procedural acts shall be subject to jurisdictional consideration.

2 – Electoral procedural acts shall be subject to challenge before the applicable jurisdictional organ by any party member who is an elector or a candidate.

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

CHAPTER V

Organisational activities and resources

Article 35

Forms of cooperation

1 – Political parties may establish forms of cooperation with public and private entities, with respect for their mutual autonomy and independence.

2 – Political parties and public entities may only cooperate with one another for specific, temporary purposes.

3 – Public entities are under an obligation to treat all political parties without discrimination.

Article 36

International affiliation

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

Article 37

Financial regime

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

Article 38

Labour relations

1 – Labour relations between political parties and their staff are subject to the general labour laws.

2 – The fact that a member of staff ceases to be a party member or engages in propaganda against the party that employs him or in favour of a rival candidature shall be deemed just cause for his dismissal.

CHAPTER VI

Final provisions

Article 39

Application to existing political parties

The present Law applies to the political parties that exist on the date on which it enters into force, and the necessary adaptations to their articles of association must be made within a time limit of at most two years.

Article 40

Repeals

The following are hereby repealed:

- a) Executive Law no. 595/74 of 7 November 1974, and the amendments made thereto by Executive Laws nos. 126/75 of 13 March 1975 and 195/76 of 16 March 1976 and by Law no. 110/97 of 16 September 1997;
- b) Executive Law no. 692/74 of 5 December 1974;
- c) Law no. 5/89 of 17 March 1989.