

Legal Regime governing Parliamentary Inquiries

**Law no. 5/93 of 1 March 1993,
as amended by
Law no. 126/97 of 10 December 1997, by Law no. 15/2007 of 3 April 2007
and by Law no. 29/2019 of 23 April 2019**

In accordance with Articles 164(d) and 169(3) of the Constitution, the Assembly of the Republic hereby decrees the following:

Article 1

Functions and object

- 1 – The function of parliamentary inquiries is to scrutinise compliance with the Constitution and the laws and to consider the acts of the Government and the Administration.
- 2 – The object of a parliamentary inquiry may be any matter of public interest that is relevant to the exercise of the Assembly of the Republic's competences.
- 3 – Parliamentary inquiries are conducted by ad hoc Assembly committees formed especially for each case, in accordance with the Rules of Procedure.

Article 2

Initiative

- 1 – Parliamentary inquiries take place:
 - a) By express decision of the Plenary, to be taken by the fifteenth day following publication of the respective draft decision in the *Journal of the Assembly of the Republic* or of its distribution in separate copies;
 - b) Upon a motion made by one fifth of all the Members of the Assembly of the Republic in full exercise of their office, up to a limit of one per Member and per legislative session.
- 2 – The following have the competence to initiate the inquiries provided for in paragraph (1)(a):
 - a) Parliamentary groups, and Members of the Assembly of the Republic from parties that do not form a parliamentary group;
 - b) Committees;
 - c) Members of the Assembly of the Republic.

Article 3

Formal requirements

- 1 – Draft decisions seeking the holding of an inquiry shall set out their object and their grounds, failing which the President shall reject them without further ado.
- 2 – A decision not to admit any draft decision that is submitted in accordance with the present Law may always be appealed to the Plenary, in accordance with the Rules of Procedure.

Article 4

Obligatory formation of a committee of inquiry

- 1 – Parliamentary committees of inquiry whose formation is moved under the terms of Article 2(1)(b) shall obligatorily be formed.

2 – The said motion, which shall be addressed to the President of the Assembly of the Republic, shall set out its object and grounds. If deemed appropriate by its signatories, the motion may also include a preliminary list of citizens to be summoned to give testimony and any steps to be taken, which cannot be subject to consideration or refusal, unless on the grounds provided for in the following paragraph.

3 – The President shall verify the formal fulfilment of the conditions provided for in the previous paragraph, and the number and identity of the Members of the Assembly of the Republic who have subscribed the motion, and, in cases in which there is any omission or error in the fulfilment of those formalities, or in which the motion's object and grounds are in breach of the Constitution or the principles it enshrines, shall immediately notify the first signatory of the requirement to make good the corresponding failing or failings.

4 – Once he has received the motion or verified that the making good referred to in the previous paragraph has occurred, the President shall take the necessary steps to define the composition of the committee of inquiry by the eighth day following publication of the motion in the *Journal of the Assembly of the Republic*.

5 – After first consulting the Conference of Representatives of Parliamentary Groups, and on condition that he is asked to do so either by the Members of the Assembly of the Republic who moved the formation of the committee or by any parliamentary group, the President of the Assembly of the Republic shall schedule a debate on the subject matter of the inquiry within the period referred to in the previous paragraph.

Article 5

Notification of the Attorney General

1 – The President of the Assembly of the Republic shall communicate the content of the resolution or the part of the provisions of the motion that orders the holding of an inquiry, to the Attorney General.

2 – The Attorney General shall inform the Assembly of the Republic whether any criminal proceedings are underway on the basis of the same facts, and if so, the phase in which those proceedings find themselves.

3 – In cases in which criminal proceedings are underway, the Assembly shall decide whether to suspend the parliamentary inquiry process until the corresponding judicial sentence transits in rem judicatam.

Article 6

Modus operandi of committees

1 – After first consulting the Conference of Representatives of Parliamentary Groups, the President of the Assembly of the Republic shall be responsible for setting the number of committee members within the limit provided for in the following paragraph, installing them, and establishing the time limit for holding the inquiry if it is of the type provided for in Article 2(1)(b), or, if the respective resolution has not already done so, establishing the time limit for holding the inquiry if it is of the type provided for in Article 2(1)(a).

2 – The maximum limit on the number of members of a committee shall be seventeen Members of the Assembly of the Republic, and the principle of representativity provided for in Article 31(1) of the Rules of Procedure shall be respected.

3 – Committee members may be substituted by substitute Members of the Assembly of the Republic, the appointment of whom shall be subject to a maximum limit of two substitutes for each of the two parliamentary groups with the largest number of Members, and one substitute for each of the remaining parliamentary groups.

4 – The substitution provided for in the previous paragraph shall have effect for the period of each meeting at which it occurs. The substitute members shall participate in that meeting as members in their own right, and may attend the remaining meetings without the right to speak or to vote.

5 – Committee members shall be installed before the President of the Assembly of the Republic by the fifteenth day following publication in the *Journal of the Assembly of the Republic* of the resolution or motion that orders the holding of the inquiry.

6 – Installation of any committee member, including substitute members, shall be conditional on their making a formal declaration of the absence of any conflict of interest in relation to the object of the inquiry, as well as of their commitment to be impartial in determining the facts under inquiry.

7 – Committees shall begin work immediately after their members are installed by the President of the Assembly of the Republic and as soon as one of the following conditions is met:

a) More than half of the committee members have been nominated, and the nominated members represent at least two parliamentary groups, one of which must obligatorily be formed by a party that is not represented in the Government;

b) The majority of committee members have not been nominated, but only the nominations of the Members of the Assembly of the Republic from a single parliamentary group are lacking.

8 – In parliamentary committees formed under the terms of Article 2(1)(b), the committee chairman shall obligatorily be appointed from among the representatives on the committee of the parliamentary groups to which the Members of the Assembly of the Republic who moved the inquiry belong, unless that appointment has already resulted from the division provided for in Article 178(6) of the Constitution.

9 – In the event that under the terms of Article 178(6) of the Constitution the chairmanship falls to a parliamentary group that did not move the inquiry, the chairmanship of a parliamentary committee formed later in the current legislature shall be allocated to the parliamentary group that did move it, on condition that the committee of inquiry in question is not one that was moved under the terms of Article 2(1)(b).

10 – Committee decisions on the agenda shall be taken by a majority of votes individually cast by each Member.

11 – The chairman shall be responsible for representing the committee, ensuring its normal operation, and ensuring the fulfilment of the rights and obligations of all those involved.

12 – The committee regulations shall ensure the possibility of every member taking the floor in each hearing.

Article 7 **Publication**

Resolutions, and the part of the provisions of motions made under the terms of Article 2(1)(b) that orders the holding of an inquiry, shall be published in the *Diário da República*.

Article 8

On the object of committees of inquiry

1 – Government or Administration acts that occurred during legislatures prior to that which is currently underway may only be the object of parliamentary inquiries when they concern matters that are still under consideration, new facts, or facts that have since come to light.

2 – During each legislative session it is not permitted to form new committees of inquiry with an object that has given rise to the formation of another committee which is still exercising its functions or which completed them during the legislative session in question, save if new facts appear.

3 – Parliamentary committees of inquiry formed under the terms of Article 2(1)(b) cannot decide to change the object defined by the authors of the motion, and the said committees may only clarify it with their consent.

4 – Committees may be guided by an indicative questionnaire defined at the beginning of their proceedings.

Article 9

Committee meetings

1 – Committee meetings may take place on any day of the week and during holidays, without any requirement for prior authorisation by the Plenary.

2 – The committee chairman shall give the President of the Assembly timely advance knowledge so that he can take the steps needed to hold the meetings provided for in the previous paragraph.

Article 10

Designation of rapporteurs

1 – Committees of inquiry must designate a rapporteur at one of their first five meetings.

2 – Rapporteurs may be designated in the form of a single rapporteur or of a panel of rapporteurs composed of three Members, depending on the option chosen by the committee.

3 – Panels of rapporteurs shall be formed via the initial designation of two of its members, one of whom shall necessarily be from a parliamentary group that is not represented in the Government.

4 – Where a panel of rapporteurs has been chosen, the third rapporteur shall be selected by both rapporteurs designated pursuant to the foregoing paragraph, from among the members of the committee, and he shall be responsible for drawing up the report and representing the panel of rapporteurs in the presentation of the final report to the Plenary.

5 – Where it is not possible to designate a third rapporteur by consensus, the committee shall designate him.

6 – In the case of committees of inquiry formed under the terms of Article 2(1)(b), the rapporteur shall be designated by the members of the committee nominated by the Members of the Assembly of the Republic who moved the inquiry.

Article 11

Duration of inquiries

1 – The maximum time limit for the conduct of an inquiry is one hundred and eighty days, at the end of which the committee shall be abolished, without prejudice to the provisions of the following paragraphs.

2 – At the request of the committee, which shall provide its grounds therefore, the Plenary may also grant an additional period of ninety days.

3 – In the case of parliamentary committees of inquiry formed under the terms of Article 2(1)(b), the additional period referred to in the previous paragraph shall obligatorily be granted, on condition that it is requested by the Members of the Assembly of the Republic from the parliamentary groups to which those who moved the formation of the committee belong.

4 – Where the committees decides to file proceedings regarding incidents for the breach of secrecy claimed in the refusal to give testimony, provide information or present documents, the time limits provided for in the foregoing paragraphs shall be suspended until the corresponding court ruling transits in rem judicatam or is withdrawn, without prejudice to the continuity of the work of the committees which they consider should go on.

5 – In the case of parliamentary committees of inquiry formed under the terms of Article 2(1)(b), the withdrawal of the proceedings depends on the consent of those who moved them.

6 – When a committee does not approve a final report containing conclusions on the investigations it has conducted, the committee chairman shall send the President of the Assembly of the Republic a memorandum containing an account of the steps that have been taken and the reasons why the work was inconclusive.

Article 12

On the Members of the Assembly of the Republic

1 – Without prejudice to the provisions of Article 6(3), Members of the Assembly of the Republic who are committee members may only be substituted because they have lost their seat, their mandate is suspended, or there is a justified reason for doing so.

2 – The President of the Assembly shall be notified of committee members' failures to attend, together with information as to whether or not the failures were justified.

3 – The President of the Assembly shall announce any unjustified failures to attend at the next plenary sitting.

4 – Any Member of the Assembly of the Republic who breaches the duty of secrecy in relation to a committee of inquiry's work, or who fails to attend more than four meetings without justification, shall lose his seat on the committee.

5 – In the case of a breach of secrecy, the committee of inquiry must arrange a summary investigation and must decide, by a qualified majority of at least two thirds of its members, whether a breach has occurred and the identity of its author.

6 – When the decision provided for in the previous paragraph is that the existence of a breach is recognised and establishes the identity of its author, the President of the Assembly of the Republic must be informed of the content of the decision, so that he may declare the author's loss of his seat on the committee and give an account of the latter decision to the Plenary.

Article 13

Committee powers

1 – Parliamentary committees of inquiry enjoy those of the judicial authorities' investigative powers which the Constitution does not reserve to those authorities.

2 – Committees have the right to the assistance of the judicial authorities, the organs of the criminal police, and the administrative authorities, under the same terms as the courts.

3 – At the duly justified request of their members, committees may submit written requests to the Government, the judicial authorities, the organs and services of the Administration, as well as any other public entities, including independent regulatory authorities, and private entities for the information and documents they deem useful to the conduct of the inquiry.

4 – In parliamentary committees of inquiry formed under the terms of Article 2(1)(b), the implementation of those fact-finding steps referred to in the previous paragraph which the Members of the Assembly of the Republic who propose them request shall be obligatory, and carrying them out shall not require a committee decision.

5 – Provision of the information and documents referred to in paragraph (3) has priority over any other services and shall be made within ten days, failing which the person responsible is guilty of the commission of the crime referred to in Article 19, save in the event that the recipients of the request possess a weighty justification that makes it advisable for the committee to extend the time limit or cancel the step.

6 – Requests of the type referred to in paragraph (3) must mention the present Law and transcribe paragraphs (5) of the present Article and (1) of Article 19.

7 – During the course of an inquiry, a refusal to give testimony, provide information or present documents shall only be deemed justified under the terms of criminal procedural law and of the present Law.

Article 13-A

Incidents for the breach of secrecy

1 – The criminal chambers of the Supreme Court of Justice shall be responsible for considering, in a final and unappealable decision, incidents for the breach of secrecy.

2 – Incidents for the breach of secrecy are of an urgent nature.

Article 13-B

Access to confidential documents

1 – Documents classified as confidential or secret, according to the law, shall be made available for consultation by Members for the performance of their duties, and committees shall undertake appropriate measures to ensure that their reproduction or publication is impossible.

2 – The provisions of the foregoing paragraph are without prejudice to the use of information gathered during the inquiry, to its use in the reasoning on which the final report is based, by explicit reference to the documentation in the committee’s possession, ensuring the protection of information which cannot be disclosed, as the case may be, under the terms of the applicable legal regime.

Article 14

Place and form of operation

1 – Parliamentary committees of inquiry shall operate at the Seat of the Assembly of the Republic, albeit whenever necessary they may operate or take steps anywhere in Portuguese territory.

2 – Meetings, steps and question sessions shall always be recorded, save if the committee takes a duly justified decision otherwise.

3 – In the event that the recording provided for in the previous paragraph does not occur, the steps that are undertaken and the testimonies or declarations that are obtained shall be set out in minutes that are specially drawn up in order to reflect the steps in detail, and the said testimonies and declarations shall be attached thereto after being signed by their authors, in a properly sealed envelope.

Article 15

Publicising work

1 – As a rule, the meetings and steps undertaken by parliamentary committees of inquiry are public, save if the committee deems otherwise in a decision that is taken at a public meeting and is duly justified by one of the following reasons:

- a)* The object of the meetings and steps was a matter that was subject to state secrecy, the secrecy of judicial proceedings, or secrecy for reasons concerning the protection of people’s private life;
- b)* The witnesses opposed publicising the meeting on the grounds of the need to safeguard fundamental rights;
- c)* The meetings and steps endangered the secrecy of the sources of information, save authorisation by the interested parties.

2 – Committee minutes and all the documents in a committee’s possession may be consulted once its final report has been approved, save if they pertain to meetings or steps that were not public under the terms of the previous paragraph.

3 – The transcription of testimonies provided before committees of inquiry at non-public meetings may only be consulted or published with the authorisation of the persons who testified.

Article 16

Summoning of persons and hiring of experts

1 – Parliamentary committees of inquiry may summon any citizen to testify about facts concerning the inquiry, without prejudice to the provisions of the following paragraphs.

2 – The prerogative of giving testimony in writing, if they so prefer, pertains to the President of the Republic, as well as ex-Presidents of the Republic regarding facts of which they were aware while exercising their functions or because of such functions, if they decide to testify before a parliamentary committee of inquiry.

3 – The prerogative of giving testimony in writing, if they so prefer, also pertains to the President of the Assembly of the Republic, ex-Presidents of the Assembly of the Republic, the Prime Minister and ex-Prime Ministers, who, within ten days counting from the date of the notification of the facts about which they are to testify, shall send the committee a declaration sworn under honour in which they relate that which they know about the facts in question.

4 – In parliamentary committees of inquiry formed under the terms of Article 2(1)(b), those fact-finding steps referred to in the previous paragraphs which the Members of the Assembly of the Republic who propose them request shall be obligatory up to a maximum limit of fifteen testimonies and the Members of the Assembly of the Republic who propose them shall be responsible for setting a date for those fact-finding steps, and up to a maximum limit of eight testimonies requested by the remaining Members of the Assembly of the Republic. Any other testimonies shall be subject to decision by the committee.

5 – Summonses shall be signed by the committee chairman or, at the latter's request, by the President of the Assembly of the Republic, and, without prejudice to the provisions of paragraphs (2) and (3), must contain the following information:

- a) The object of the inquiry;
- b) The place, day and time of the testimony;
- c) The sanctions applicable to the crime provided for in Article 19 of the present Law.

6 – Summonses may be to any place in Portuguese territory, in any of the forms provided for in the Code of Criminal Procedure, and in the case of staff and agents of the state or any other public entity must be made via the respective hierarchical superior.

7 – The steps provided for in paragraph (1) may be requested up to fifteen days prior to the end of the time limit set for presentation of the report.

8 – Subject to prior authorisation by the President of the Assembly of the Republic, committees may requisition and hire specialists to assist them in their work.

Article 17

Testimonies

1 – Failure to appear or refusal to testify before a parliamentary committee of inquiry shall only be deemed justified under the general terms of criminal procedural law.

2 – The obligation to appear before a committee takes precedence over any official act or proceedings.

3 – In no case whatsoever are staff and agents of the state or any other public entity permitted to refuse to appear. They may, however, ask for the date on which they are summoned to appear to be changed due to a pressing service requirement, on condition that this does not frustrate the conduct of the inquiry.

4 – The form of testimonies shall be governed by the Code of Criminal Procedure rules applicable to testimonial evidence.

Article 18

Costs

1 – No one may be prejudiced in their work or employment due to the obligation to testify before a parliamentary committee of inquiry, and all failures to attend that result from fulfilment of that obligation are deemed justified.

2 – Travel expenses, together with any compensation which, at the request of the summoned person, is set by the committee chairman, shall be paid from the budget of the Assembly of the Republic.

Article 19 **Qualified disobedience**

1 – Outside the cases provided for in Article 17, failure to appear, refusal to testify or non-compliance with legitimate orders given by a parliamentary committee of inquiry in the exercise of its functions constitute the crime of qualified disobedience for the purposes provided for in the Penal Code.

2 – In the event that any of the facts provided for in the previous paragraph are verified, and after first consulting the committee, the latter's chairman shall communicate it to the President of the Assembly, together with those elements that are indispensable to the preparation of a case file, for the purpose of reporting the case to the Public Prosecutors' Office.

Article 20 **Report**

1 – Final reports shall obligatorily mention:

- a)* The object of the inquiry;
- b)* The questionnaire, if there was one;
- c)* A technical note briefly listing the steps taken by the committee;
- d)* The conclusions of the inquiry, approved based on the draft report or on the alternative proposals submitted, each of them containing a brief statement of their grounds;
- e)* Any recommendations;
- f)* The vote of each committee member, together with any written explanations of vote submitted in writing;
- g)* Proposals which have not been included in their final version, mentioning their proponents.

2 – In the event of a panel of rapporteurs, a single final report shall be produced. It shall include, in annexe, the contents submitted by them which did not gather consensus and were not subject to consideration in the final conclusions, without prejudice to the prerogative pertaining to each rapporteur to include an explanation of vote in the final report.

3 – The conclusions referred to in Article 20(1)(d), as well as any recommendations referred to in Article 20(1)(e), if included in the report, shall be numbered and voted on individually and separately.

4 – In light of the final contents of the report, established according to the vote referred to in the previous paragraph, the rapporteur must confirm or resign from that position.

5 – In the event of resignation by the rapporteur, the committee may nominate a substitute for the purpose of presenting the report to the Plenary.

6 – The report and any explanations of vote shall be published in the *Journal of the Assembly of the Republic*.

Article 21

Debate and resolution

1 – The President of the Assembly of the Republic shall include consideration of the report and any explanations of vote on the order of business at most thirty days after their publication.

2 – Together with the report, parliamentary committees of inquiry may submit a draft resolution.

3 – Once the report has been submitted to the Plenary, a debate shall be opened.

4 – The debate shall be introduced by a brief exposé by the committee chairman and the designated rapporteur or the representative of the panel of designated rapporteurs, and shall conform to a specific table of times which the President of the Assembly of the Republic shall set after first consulting the Conference of Leaders.

5 – Without prejudice to the overall times available for discussion, each parliamentary group shall dispose of three minutes in which to present its explanations of vote.

6 – The Plenary may decide to publish committee minutes in full or in part, subject to the provisions of Article 15.

7 – Together with the report, the Plenary shall consider any draft resolutions that are submitted to it.

8 – The report shall not be the object of a plenary vote.

Article 22

Revocatory rule

Law no. 43/77 of 18 June 1977 is hereby repealed.