

Monitoring, assessment and pronouncement by the Assembly of the Republic within the scope of the process of constructing the European Union

**Law no. 43/2006 of 25 August 2006,
as amended by Law no. 21/2012 of 17 May 2012^{1,2},
Law no. 18/2018 of 2 May 2018 and
Law no. 64/2020 of 2 November 2020³**

Pursuant to Article 161(c) of the Constitution, the Assembly of the Republic decrees as follows:

Article 1 Object

1 – This Law defines the Assembly of the Republic’s competences to monitor, assess and pronounce on Portugal’s participation in the process of constructing the European Union and to exercise the powers of national Parliaments as set out in the treaties that govern the European Union.⁴

2 – For the purposes of the performance of these functions, there shall be a regular consultation process between the Assembly of the Republic and the Government.

Article 1-A Pronouncement

The Assembly of the Republic shall issue opinions on matters that fall within the sphere of its reserved legislative competence and are pending decision at European Union bodies and on the other initiatives of European institutions, ensuring the examination of their content and, where applicable, compliance with the principles of subsidiarity and proportionality.

Article 2 Pronouncement within the scope of matters that fall within the Assembly of the Republic’s exclusive legislative competence

1 – When matters that fall within the sphere of the Assembly of the Republic’s exclusive legislative competence are pending decision at European Union bodies, it shall pronounce itself thereon in accordance with the following paragraphs.

¹ Pursuant to Article 5 of Law no. 21/2012 of 17 May 2012, *Law no. 43/2006 of 25 August 2006 is republished as an annexe to this Law, whereof it is an integral part, in its current wording.*

² Article 4 of Law no. 21/2012 of 17 May 2012 deleted Chapters I, II and III of Law no. 43/2006 of 25 August 2006: *Chapter I – The Assembly of the Republic’s powers of monitoring, assessment and pronouncement within the scope of the process of constructing the European Union; Chapter II – Selection, nomination or appointment of senior figures for or to European Union positions; Chapter III – Final provision.*

³ Pursuant to Article 3 of Law no. 64/2020 of 11 November 2020, *this Law shall enter into force on the day following that of its publication.*

⁴ As amended by Law no. 21/2012 of 17 May 2012. Original wording: *The Assembly of the Republic shall issue opinions on matters that fall within the sphere of its reserved legislative responsibility and are pending decision at European Union bodies, in accordance with the principle of subsidiarity, and shall monitor and assess Portugal’s participation in the construction of the European Union, pursuant to this Law.* The original wording of Article 1 was subdivided between the current Articles 1 and 1-A. See note to Article 1-A.

2 – Where the situation referred to in the previous paragraph occurs, the Government must inform the Assembly of the Republic and request its opinion, and shall in a timely manner send an information note containing a summary of the draft or proposal, an analysis of its implications and, if one has already been defined, the position the Government intends to adopt.

3 – The European Affairs Committee shall draw up the opinion in conjunction with the parliamentary committees with competence for the matter in question.

4 – The opinion shall be submitted to the Plenary for the purposes of discussion and voting, in the form of a draft resolution.

5 – At any subsequent stage of the decision-making process of the European Union bodies, the Assembly of the Republic may, on its own initiative or that of the Government, draw up new opinions and put them to the vote or update those that have already been passed.

Article 3

Pronouncement on compliance with the principle of subsidiarity

1 – The Assembly of the Republic shall ensure the exercise of the powers set out in the Protocol on the Role of National Parliaments in the European Union and the Protocol on the Application of the Principles of Subsidiarity and Proportionality annexed to the treaties governing the European Union.

2 – The European Affairs Committee shall exercise the powers provided for in the previous paragraph, without prejudice to the competence of the Plenary and of the other parliamentary committees.

3 – Any opinion which has been approved by the European Affairs Committee and concludes that there has been a breach of the principle of subsidiarity shall be submitted to the Plenary for the purposes of discussion and voting, in the form of a draft resolution.

4 – Where the opinion refers to a matter that falls within the competence of the Legislative Assemblies of the Autonomous Regions, they must be consulted in a timely manner.

Article 4

Means of monitoring and assessment

1 – The Assembly of the Republic shall monitor and assess Portugal's participation in the process of constructing the European Union, particularly by holding:

- a) A plenary debate in which the Prime Minister shall take part and shall be the first to speak, to prepare and assess European Councils, to be held twice each semester, without prejudice to the holding of an additional debate, at the request of the European Affairs Committee, where exceptional circumstances so warrant;
- b) An annual debate in a plenary sitting to be held in the first quarter of each year, in which the Government shall take part, on Portugal's participation in Permanent Structured Cooperation, under the terms of Article 42(6) and Article 46 of the Treaty on European Union;
- c) A plenary debate in which the Government shall take part, at the beginning of each presidency of the Council of the European Union, on the priorities thereof. The debate in the second half of the year may also include discussion of and voting on the annual report sent by the Government in accordance with the provisions of Article 5(4);

- d) A plenary debate in which the Government shall take part, on the State of the Union, after the respective debate at the European Parliament and to be held during the final quarter of each year;
- e) A plenary debate in which the Government shall take part, on the various instruments for the economic governance of the European Union that are included in the European Semester, and particularly on the Stability and Growth Programme, in the second quarter of the year.

2 – The Assembly of the Republic shall also monitor and assess Portugal’s participation in the process of constructing the European Union, through the European Affairs Committee, particularly by holding:

- a) A debate in the European Affairs Committee, with the presence of a member of the Government, to be held before each European Council, except where, pursuant to subparagraph (a) of the preceding paragraph, the debate is scheduled for a plenary sitting;
- b) A debate in the European Affairs Committee, with the presence of a member of the Government, on the European Commission Work Programme, in the last quarter of the year;
- c) Meetings in the weeks after the date on which the European Council is held, between the European Affairs Committee and a member of the Government, to assess the conclusions thereof;
- d) Joint meetings between the European Affairs Committee, the parliamentary committee with responsibility for the matter in question and the competent member of the Government on the various instruments for the economic governance of the European Union that are included in the European Semester;
- e) Joint meetings, where deemed necessary, between the European Affairs Committee, the parliamentary committee with competence for the matter in question and the competent member of the Government, during the week before or after the date on which the Council in its different configurations is held;
- f) Meetings on European initiatives, in the European Affairs Committee with members of the Government;
- g) Hearings of senior figures whom the Government has nominated for or appointed to European Union positions;
- h) Joint meetings between the European Affairs Committee, the parliamentary committee with responsibility for the matter in question and the competent member of the Government during the week before the date of meetings of the Foreign Affairs Council, where questions relating to Permanent Structured Cooperation are discussed.

3 – On its own initiative or at the request of the Government and in the exercise of its competences, the Assembly of the Republic shall consider the draft guidelines for the European Union’s policies and actions in accordance with the Rules of Procedure.

4 – The Assembly of the Republic shall consider the European Union’s financial programming, particularly with regard to the structural funds and the Cohesion Fund, in accordance with the Budget Framework Law, the Major Options of the Plan, the Regional Development Plan or other national programmes that provide for the use of such funds.

5 – Without prejudice to the provisions of the previous paragraphs, the Assembly of the Republic or the Government may also raise debates on all the subjects and positions under discussion at European Union institutions which involve matters that fall within their competence.

6 — Under the terms of the Protocol on the Application of the Principles of Subsidiarity and Proportionality annexed to the treaties governing the European Union, the Assembly of the Republic may, by means of a resolution, urge the Government to lodge an appeal before the Court of Justice of the European Union on the grounds that the principle of subsidiarity has been violated by a legislative act of the European Union.

Article 5

Informing the Assembly of the Republic

1 – The Government must keep the Assembly of the Republic informed about the matters and positions that are to be discussed at European institutions in a timely manner, as well as about proposals that are under discussion and negotiations that are underway, sending the Assembly of the Republic all the relevant documentation as soon as it is presented or submitted to the Council, particularly including:

- a) Draft agreements or treaties to be concluded by the European Union or between Member States within the context of the European Union, without prejudice to the rules governing reserve or confidentiality that apply to the negotiation process;
- b) Information notes on the matters and positions that are to be discussed at European institutions, as well as about proposals that are under discussion and negotiations that are underway;
- c) Positions that it has taken or intends to take with regard to a draft legislative act of which the Assembly of the Republic has been made aware under the terms of the Protocol on the Role of National Parliaments in the European Union annexed to the treaties governing the European Union, where so requested by the Assembly of the Republic.
- d) *(Repealed.)*
- e) *(Repealed.)*
- f) *(Repealed.)*
- g) *(Repealed.)*
- h) *(Repealed.)*
- i) *(Repealed.)*
- j) *(Repealed.)*
- l) *(Repealed.)*

2 – Under the terms of the Protocol on the Role of National Parliaments in the European Union annexed to the treaties governing the European Union, the Assembly of the Republic shall receive in particular:

- a) Draft legislative and non-legislative acts for adoption by the European Union institutions;
- b) The European Commission's annual analysis of growth, its work programme, and any other legislative programming or policy strategy instrument;
- c) Initiatives taken by the European Council authorising it to act by qualified majority, in cases where the treaties governing the European Union state that the decision must be taken unanimously;
- d) Initiatives taken by the European Council authorising it to adopt legislative acts in accordance with the ordinary legislative procedure, where the treaties governing the European Union provide that the Council must adopt those acts in accordance with the special legislative procedure;
- e) Agendas and results of the Council's meetings, including the minutes of meetings where the Council decides on draft legislative acts;
- f) Reports on the application of the principle of subsidiarity;
- g) Consultation documents;

h) The annual report of the European Court of Auditors.

3 – Members of the Assembly of the Republic may request any available national or European documentation that is important to the exercise of the competences provided for in this Law.

4 – In the first quarter of each year, the Government shall submit a succinct report that makes it possible to monitor Portugal's participation in the process of constructing the European Union to the Assembly of the Republic. That report must particularly provide information on the decisions with the highest impact on Portugal taken by the European institutions during the previous year, and the measures implemented by the Government as a result of those decisions, with particular emphasis on the transposition of directives.

5 – The report provided for in the previous paragraph shall include a specific chapter on Portugal's participation in Permanent Structured Cooperation, under the terms of Article 42(6) and Article 46 of the Treaty on European Union.

Article 6

European Affairs Committee

1 – The European Affairs Committee is the parliamentary committee with the competence to monitor and assess European affairs in overall terms, without prejudice to the competence of the Plenary and the other parliamentary committees.

2 – The European Affairs Committee specifically has the competence to:

- a) Consider all subjects that are of interest to Portugal within the framework of the construction of Europe, the European institutions or cooperation between European Union Member States;
- b) Consider the Government's actions with regard to such subjects, particularly arranging the hearings provided for in this Law;
- c) Consider, vote on an opinion and submit a draft resolution where matters that fall within the Assembly of the Republic's exclusive legislative competence are pending decision at European Union bodies;
- d) Consider, vote on an opinion and possibly draw up a draft resolution on a draft legislative act's compliance with the principle of subsidiarity;
- e) Stimulate greater participation by the Assembly of the Republic in the work carried out by the European institutions;
- f) Liaise the exchange of information and appropriate forms of cooperation with the parliamentary committees with competence for the matter in question in order to ensure that the Assembly of the Republic participates efficiently in matters regarding the construction of the European Union;
- g) Draw up and approve an opinion on documents which the Government submits to the Assembly of the Republic or is obliged by the law or regulations to submit to European Union institutions;
- h) Hold an annual meeting with Members of the Legislative Assemblies of the Autonomous Regions, and request that they issue opinions in accordance with Article 3(4) where regional legislative competences are at stake;
- i) Intensify the exchanges between the Assembly of the Republic and the European Parliament, proposing the attribution of reciprocal facilities, regular meetings and the possibility of holding videoconferences with Members of the European Parliament,

particularly those elected in Portugal, who shall regularly be heard by the European Affairs Committee;

j) Arrange meetings or hearings with European Union institutions, bodies and agencies on subjects that are important to Portugal's participation in the construction of the European Union;

l) Promote interparliamentary cooperation within the European Union, particularly within the scope of the application of the Protocol on the Role of National Parliaments in the European Union and the Protocol on the Application of the Principles of Subsidiarity and Proportionality annexed to the treaties governing the European Union;

m) Appoint the Portuguese representatives to the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), and consider their work and the results of the Conference;

n) Hear senior figures whom the Portuguese Government is to appoint or nominate and consider their *curricula vitae*, in accordance with Article 7-A;

o) Arrange hearings and debates on European issues with civil society representatives, thereby contributing to the creation of a public European forum at the national level.

3 – The European Affairs Committee also has the competence to approve the methodology that defines the process of drawing up reports and opinions on compliance with the principle of subsidiarity by draft European Union legislative acts in the light of the time limits and procedures established in the Protocol on the Role of National Parliaments in the European Union and the Protocol on the Application of the Principles of Subsidiarity and Proportionality annexed to the treaties governing the European Union and the provisions of the following Article.

Article 7

Assessment process

1 – The European Affairs Committee shall circulate draft legislative acts, as well as other documents referred to in Article 5(2), to its members and the other parliamentary committees.

2 – The other parliamentary committees shall issue reports, where requested by the European Affairs Committee, or on their own initiative.

3 – The reports referred to in the previous paragraph may conclude with concrete proposals for consideration by the European Affairs Committee.

4 – Where it approves an opinion on a matter that falls within its competence, the European Affairs Committee shall attach the reports issued by the other committees in an annexe thereto. Where there is a divergence with regard to the analysis of compliance with the principle of subsidiarity, the European Affairs Committee opinion shall prevail.

5 – In urgent situations, or where it deems appropriate, the European Affairs Committee may simply adopt the report issued by the parliamentary committee with competence for the matter in question or draw up an opinion without first asking for a report or without one being drafted.

6 – After considering a European initiative, the European Affairs Committee may draw up a draft resolution for submission to the Plenary.

7 – Opinions issued by the European Affairs Committee shall be sent to the President of the Assembly of the Republic, who shall forward them to the Presidents of the European Parliament, the Council, the European Commission and, where appropriate, the Committee of the Regions and the Economic and Social Committee, as well as to the Government.

8 – Consultation documents, the work programme and any other European Commission legislative programming or policy strategy instrument may be the object of a European Affairs Committee opinion, in accordance with the procedure laid down for the consideration of draft European Union legislative acts, *mutatis mutandis*.

Article 7-A
**Hearing senior figures whom the Government has nominated for or appointed
to European Union positions**

1 – Acting via the European Affairs Committee, the Assembly of the Republic shall hear the senior figures whom the Government intends to nominate for or appoint to positions at European Union institutions, bodies or agencies, where filling those positions is not subject to competitive recruitment, and the applicable norms require the nomination or appointment of members from each of the Member States.

2 – The procedure set out in the previous paragraph applies to the nomination or appointment of senior figures for or to positions of a jurisdictional nature, particularly those of Judge of the Court of Justice of the European Union, including the Court of Justice and the General Court, of Member of the European Court of Auditors, and Advocate General.

3 – The procedure set out in paragraph (1) applies to nominations for or appointments to senior positions in European agencies, where this is compatible with the specific selection process under European Union rules.

4 – These rules do not apply to candidates for membership of the European Commission, the European Central Bank, the Committee of the Regions or the Economic and Social Committee, or to candidates for election to the European Parliament.

5 – Before senior figures are nominated or appointed, in accordance with paragraph (1), the Government shall forward their names and *curricula vitae* and confirmation that they meet the requirements for exercising the relevant position to the Assembly of the Republic, and shall do so a reasonable amount of time in advance, taking into account the time limits for nominations or appointments.

6 – For the purposes of the previous paragraph, when what is at stake is not the reappointment of a senior figure who already occupies the position, the Government shall forward a list of at least three candidates for the position that is to be filled.

7 – Acting via the European Affairs Committee, the Assembly of the Republic shall draw up and approve a report, which it shall make known to the Government.

Article 8
Human, technical and financial resources

The Assembly of the Republic shall provide the European Affairs Committee with the human, technical and financial resources that are indispensable to the exercise of its competences in accordance with this Law.

Article 9
Scope

(Repealed.)

Article 10

Positions of a non-jurisdictional nature

(Repealed.)

Article 11

Positions of a jurisdictional nature

(Repealed.)

Article 12

Repeal

Law no. 20/94 of 15 June 1994 is hereby repealed.