

**Monitoring, assessment and pronouncement by the
Assembleia da República
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](#), [Law No 64/2020 of 2 November 2020](#)³,
and [Law No 44/2023 of 14 August 2023](#)⁴

Pursuant to Article 161(c) of the Constitution, the *Assembleia da República* decrees as follows:

Article 1

Subject matter

1 – This Law defines the competences of the *Assembleia da República* to monitor, assess and pronounce itself on Portugal’s participation in the process of constructing the European Union and exercise the powers of national parliaments as set out in the treaties governing the European Union.⁵

2 – For the purposes of the performance of its functions, there shall be a regular consultation process between the *Assembleia da República* and the Government.

Article 1-A

Pronouncement

The *Assembleia da República* shall issue opinions on matters that fall within the sphere of its exclusive legislative competence 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 on matters within the sphere of exclusive legislative competence

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

2 – Where the situation referred to in the previous paragraph occurs, the Government must inform the *Assembleia da República* and request its opinion and shall send, in a timely manner,

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 Assembleia da República’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 Pursuant to Article 4 of Law No 44/2023 of 14 August 2023, *this Law shall enter into force on the first day of the month following that of its publication.*

⁵ As amended by Law No 21/2012 of 17 May 2012. Original wording: *The Assembleia da República shall issue opinions on matters that fall within the sphere of its exclusive legislative competence 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.

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 which the Government intends to adopt.

3 – The opinion shall be prepared by the European Affairs Committee after a mandatory opinion has been issued by 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 at the European Union bodies, the *Assembleia da República* may, on its own initiative or that of the Government, draw up new opinions and put them to the vote or update that which has already been passed.

6 – In addition to analysing the merits of the initiative, the opinion must also state whether it complies with the principles of subsidiarity and proportionality.

Article 2-A

Approval of the rules for electing Members of the European Parliament

For the purposes of the special legislative procedure laid down in Article 223 of the Treaty on the Functioning of the European Union, in order to establish the rules for electing Members of the European Parliament, the *Assembleia da República* shall pronounce itself through a resolution drawn up under the previous Article, *mutatis mutandis*.

Article 3

Pronouncement on compliance with the principles of subsidiarity and proportionality

1 – The *Assembleia da República* 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 ensure the exercise of 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 and/or the principle of proportionality 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 falling 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 *Assembleia da República* 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 plenary debate 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 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 semester may also include the discussion and approval of the annual report sent by the Government under Article 5(4);
- (d) a plenary debate in which the Government shall take part, on the State of the Union, after the respective debate in 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, particularly on the Stability and Growth Programme, in the second quarter of the year.

2 – The *Assembleia da República* 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 in which a member of the Government shall take part, 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, in which a member of the Government shall take part, 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, in the week before or after the date on which the Council, in its different configurations, is held;
- (f) meetings in the European Affairs Committee with members of the Government on European initiatives;
- (g) hearings with 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 in 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 *Assembleia da República* shall consider the draft guidelines for the European Union's policies and actions in accordance with the Rules of Procedure.

4 – The *Assembleia da República* shall consider the European Union's financial programming, particularly with regard to the structural funds and the Cohesion Fund, under 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 *Assembleia da República* or the Government may also raise debates on all the subjects and positions under discussion in European institutions involving matters falling within their competence.

6 – Under the Protocol on the application of the principles of subsidiarity and proportionality annexed to the treaties governing the European Union, the *Assembleia da República* may, through 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 or the principle of proportionality has been violated by a legislative act of the European Union.

Article 5

Informing the *Assembleia da República*

1 – The Government must keep the *Assembleia da República* informed about the matters and positions that are to be discussed in European institutions in a timely manner, as well as about proposals under discussion and negotiations underway, sending the *Assembleia da República* all the relevant documentation as soon as it is presented or submitted to the Council, namely:

- (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 to be discussed in European institutions, as well as about proposals under discussion and negotiations underway;
- (c) positions it has taken or intends to take with regard to a draft legislative act of which the *Assembleia da República* has been made aware pursuant to 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 *Assembleia da República*.
- (d) *(Repealed.)*
- (e) *(Repealed.)*
- (f) *(Repealed.)*
- (g) *(Repealed.)*
- (h) *(Repealed.)*
- (i) *(Repealed.)*
- (j) *(Repealed.)*
- (l) *(Repealed.)*
- (m) correlation tables relating to the procedures for transposing directives once they have been communicated to the European Commission.

2 – Under the Protocol on the role of national parliaments in the European Union annexed to the treaties governing the European Union, the *Assembleia da República* shall receive, in particular:

- (a) draft legislative and non-legislative acts to be adopted by 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 *Assembleia da República* 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 to the *Assembleia da República* that makes it possible to monitor Portugal's participation in the process of constructing the European Union. 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, in the chapter on the transposition of directives, information on all the directives approved in the European bodies in the previous two years.

6 – The report provided for in paragraph (4) shall include a specific chapter on Portugal's participation in Permanent Structured Cooperation under 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:

(a) to 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) to consider the Government's actions with regard to such subjects, particularly by arranging the hearings provided for in this Law;

(c) to consider, vote on an opinion and submit a draft resolution where matters that fall within the *Assembleia da República's* exclusive legislative competence are pending decision at European Union bodies;

(d) to consider, vote on an opinion and possibly submit a draft resolution on the compliance of draft legislative acts with the principles of subsidiarity and proportionality;

(e) to stimulate greater participation by the *Assembleia da República* in the work carried out by the European institutions;

(f) to 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 *Assembleia da República* participates efficiently in matters regarding the construction of the European Union;

- (g) to draw up and approve an opinion on documents the Government submits to the *Assembleia da República* or is obliged by the law or regulations to submit to European Union institutions;
- (h) to hold an annual meeting with Members of the Legislative Assemblies of the Autonomous Regions, and request that they issue an opinion in accordance with Article 3(4) where regional legislative competences are at stake;
- (i) to intensify exchanges between the *Assembleia da República* 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) to arrange meetings or hearings with European Union institutions, bodies and agencies on subjects important to Portugal's participation in the construction of the European Union;
- (l) to 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) to appoint 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) to hear senior figures whom the Portuguese Government is to appoint or nominate and consider their *curricula vitae* in accordance with Article 7-A;
- (o) to 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 establishing the procedure for drawing up reports and opinions on the compliance of draft European Union legislative acts with the principles of subsidiarity and proportionality, taking into account 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 so 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 sphere of competence, the European Affairs Committee shall attach the reports issued by the other committees in an annexe thereto. Where there is a divergence concerning the analysis of compliance with the principle of subsidiarity or the principle of proportionality, the European Affairs Committee's opinion shall prevail.

5 – In urgent situations, or where it deems to fully adhere to its terms, the European Affairs Committee may adopt the report issued by the parliamentary committee with competence for the matter in question.

6 – After assessing 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 *Assembleia da República*, 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 subject of a European Affairs Committee opinion in accordance with the procedure laid down for assessing draft European Union legislative acts, *mutatis mutandis*.

9 – The process of assessment by the European Affairs Committee of the compliance of draft European Union legislative acts with the principle of subsidiarity under this Article includes an analysis of compliance with the principle of proportionality.

Article 7-A

Hearing of senior figures whom the Government has nominated for or appointed to European Union positions

1 – Acting via the European Affairs Committee, the *Assembleia da República* shall hear the senior figures whom the Government intends to nominate for or appoint to positions in 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 *Assembleia da República*, 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 to be filled.

7 – Acting via the European Affairs Committee, the *Assembleia da República* shall draw up and approve a report, which it shall make known to the Government.

Article 7-B

Hearing of the Government on ministerial meetings of the Council of the European Union

As part of the hearing of ministers in the standing parliamentary committees provided for in the Rules of Procedure of the *Assembleia da República*, a round is dedicated to learning about and considering European affairs, namely the positions to be debated or already discussed at the ministerial meetings of the Council of the European Union, depending on whether the hearing is held before or after they take place.

Article 8

Human, technical and financial resources

The *Assembleia da República* 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.