

## **LAW GOVERNING THE EXERCISE OF THE RIGHT OF PETITION**

**Note:** Text of Law no. 43/90, as published in Series I of *Diário da República* no. 184 dated 10 August 1990, and amended by Laws nos. 6/93, 15/2003 and 45/2007, which were respectively published in Series I A of *Diário da República* no. 50 dated 1 March 1993, no. 129 dated 4 June 2003, and no. 163 dated 24 August 2007

Under the terms of Article 161c of the Constitution, the Assembly of the Republic hereby decrees the following:

### **Chapter I GENERAL PROVISIONS**

#### **Article 1 Scope**

1 – The present Law shall regulate and ensure the exercise of the right of petition, with a view to defending citizens' rights, the Constitution, the law, and the general interest by means of the making of petitions, representations, protests or complaints to the bodies that exercise sovereign power or any public authority except the courts.

2 – The following shall be regulated by special legislation:

- a) The impugnation of administrative acts by protest or by hierarchical appeal;
- b) The right of complaint to the Ombudsman and to the Media Regulatory Body;
- c) The right of residents' organisations to petition local authorities;
- d) The collective right of petition of full-time military and militarised personnel on active service.

#### **Article 2 Definitions**

1 – In general, "petition" shall mean the making of a request or a proposal to a body that exercises sovereign power or to any public authority, with a view to its taking, adopting, or proposing certain measures.

2 – "Representation" shall mean an exposé intended to display an opinion contrary to that expressed by any person or body, or to call a public authority's attention to a certain situation or act, with a view to the revision thereof, or to the consideration of its effects.

3 – "Protest" shall mean the impugnation of an act before the body, member of staff, or agent who or which engaged in it, or before his or its hierarchical superior.

4 – "Complaint" shall mean the denunciation of any unconstitutionality or illegality, or of the irregular operation of any department or service, with a view to the taking of measures against those responsible.

5 - Petitions, representations, protests and complaints shall be termed "collective" when made by a number of persons acting by means of a single instrument, and "for and on behalf of a collective body" when made by a body corporate representing its members.

6 – Whenever the present Law just employs the term “petition”, the latter shall be taken to apply to all the formats referred to by the present Article.

### **Article 3 Cumulation**

The right of petition may be cumulated with other means of defending rights and interests which are provided for by the Constitution and the law, and its exercise shall not be limited or restricted by any body that exercises sovereign power, or by any public authority.

### **Article 4 Holders**

1 – The right of petition, as an instrument for democratic participation in politics, shall belong to Portuguese citizens, without prejudice to the possession of the same legal capacity by citizens of other states which grant it to Portuguese citizens under equal and reciprocal terms and conditions, particularly within the scope of the European Union and the Community of Portuguese-Speaking Countries.

2 – Foreigners and stateless persons who reside in Portugal shall always possess the right of petition for the purpose of defending those of their rights and interests which are protected by law.

3 - The right of petition shall be exercised either individually or collectively.

4 – Any legally constituted body corporate shall also possess the right of petition.

### **Article 5 Universal and free nature**

The right to make petitions shall be universal and free of charge, and shall never imply the payment of any tax or fee.

### **Article 6 Freedom of petition**

1 – No public or private person or body shall prohibit or in any way impede or hamper the exercise of the right of petition, particularly the free collection of signatures or the practice of the other necessary acts.

2 – The provisions of the previous paragraph shall not prejudice the ability to verify the authenticity of signatures and the personal details of signatories, either in full or by sampling.

3 – Petitioners shall indicate their full name and the number of their identity card, or, in the event that they do not hold the latter, of any other valid identity document.

### **Article 7 Guarantees**

1 – No one shall be prejudiced, privileged or deprived of any right as a result of the exercise of the right of petition.

2 - The provisions of the previous paragraph shall not exclude a petitioner's criminal, disciplinary or civil liability if the exercise of the right of petition leads to the illegitimate breach of an interest which is protected by law.

### **Article 8** **Duty to study and communicate**

1 – Exercise of the right of petition shall oblige the body to which the petitions are directed to receive and study the petitions, representations, protests or complaints that are made, as well as to communicate such decisions as are taken.

2 – A mistake in the choice of the format of the right of petition from among those referred to by Article 2 shall not justify a refusal to consider a petition by the body to which it is directed.

3 - Petitioners shall indicate a single address for the purpose of the communications provided for by the present Law.

4 – When the right of petition is exercised collectively, communications and notifications which are made in accordance with the previous paragraph shall be deemed valid for all the petitioners.

## **CHAPTER II** **Form and procedure**

### **Article 9** **Form**

1 – Exercise of the right of petition shall not be subject to any given form or specific process.

2 – However, petitions, representations, protests and complaints shall be made in writing, may be made in the Braille language, and shall be properly signed by the holders of the right of petition or others at their request, if the holders do not know how, or are unable, to sign.

3 - The right of petition may be exercised by post or by telegraph, telex, fax, electronic mail or other means of telecommunication.

4 – The bodies that exercise sovereign power, the self-government bodies of the Autonomous Regions, local authority bodies, and the departments of the Public Administration to which the instruments involved in the exercise of the right of petition are delivered, shall organise systems for receiving petitions electronically.

5 – The body to which a petition is directed shall invite the petitioner to complete an existing written petition when:

- a) The petitioner is not correctly identified or the petition does not include details of his domicile;
- b) The text is unintelligible, or does not specify the object of the petition.

6 – For the purposes of the previous paragraph, the body to which the petition is directed shall set a time period of not more than twenty days, with the warning that failure to overcome the indicated shortcomings will cause the petition to be automatically archived.

7 – In the case of a collective petition, or one which is made for and on behalf of a collective body, the complete details of one of the signatories shall suffice.

**Article 10**  
**Delivery in Portuguese territory**

1 - As a rule, petitions shall be delivered at the offices of the bodies to which they are directed.

2 - Petitions which are directed to the central management of public bodies may be delivered at the offices of the latter's local management when the interested parties reside or find themselves in the respective area.

3 – When petitions are directed to Public Administration bodies which do not possess departments or services in the area of the district or municipality in which the interested party or parties reside or find themselves, they may be delivered to the secretariat of the civil government of the district in question.

4 - Petitions which are made in accordance with the previous paragraphs shall be sent by registered post to the bodies to which they are directed within twenty-four hours of their delivery, together with mention of the date of that delivery.

**Article 11**  
**Delivery abroad**

1 - Petitions may also be delivered at the departments or services of Portugal's diplomatic and consular offices in the country in which the interested parties find themselves or reside.

2 – The diplomatic or consular offices shall send the petitions to the bodies to which they are directed, in accordance with paragraph (4) of the previous Article.

**Article 12**  
**Immediate denial**

A petition shall be immediately denied when it is manifest that:

- a) The desired purpose is illegal;
- b) The object is the reconsideration of court decisions, or of administrative acts which are not subject to appeal;
- c) The object is the reconsideration by the same body of cases which have already been considered following exercise of the right of petition, save only if new grounds for consideration are invoked or have occurred.

2 - A petition shall also be immediately denied if:

- a) It was made anonymously and studying it has not made it possible to identify the person or persons it came from;
- b) Any of the required grounds are not met.

**Article 13**  
**Procedure**

1 – In the absence of the immediate denial referred to by the previous Article, the body which receives a petition shall take a decision in relation to the content thereof as soon as is compatible with the complexity of the subject matter.

2 – If the body deems that it does not possess the responsibility or competence to consider the matter which forms the object of a petition, it shall forward it to the body that does, and shall inform the petitioner thereof.

3 – In order to judge the grounds which are invoked in a petition, the body that does possess the responsibility or competence may take such steps as are necessary to determine the facts and, depending on the case in question, may either take the measures required to satisfy the desired purpose, or archive the file.

**Article 14**  
**Computerised control and publicising of the procedure**

The bodies that exercise sovereign power, the self-government bodies of the Autonomous Regions, local authority bodies, and the departments of the Public Administration to which the instruments involved in the exercise of the right of petition are delivered, shall organise computerised petition control systems, and systems for publicising the steps they take on their websites.

**Article 15**  
**Organisational framework**

Without prejudice to the special provisions applicable to the Assembly of the Republic, the bodies that exercise sovereign power, the self-government bodies of the Autonomous Regions, local authority bodies, and the departments of the Public Administration to which the instruments involved in the exercise of the right of petition are most frequently delivered shall organise appropriate schemes for receiving, treating and deciding upon the petitions they receive.

**Article 16**  
**Renunciation**

1 – Petitioners may at any time desist from their petitions, by delivering a written request to that end to the body which received the petition in question, or to the body which is studying it.

2 – When there are various petitioners, such a request must be signed by all of them.

3 – The body with the responsibility to study the petition shall decide whether it should accept the request, declare the petition terminated and archive it, or, in the light of its subject matter, whether it warrants pursuit in defence of the public interest.

**CHAPTER III**  
**Petitions directed to the Assembly of the Republic**

**Article 17**  
**Procedure in relation to petitions directed to the Assembly of the Republic**

1 - Petitions that are directed to the Assembly of the Republic shall be addressed to the President of the Assembly of the Republic and shall be considered by the committees with responsibility for the matter in question, or by a committee which is specially formed for the purpose and which may consult the former, as well as by the Plenary in the cases provided for by Article 24.

2 - Petitions shall be registered and numbered by the departments or services with responsibility for the matter in question.

3 – Once it has received a petition, the competent parliamentary committee shall decide whether to admit it on the basis of a memorandum on its admissibility drawn up by the

parliamentary committee support services, shall appoint a Member to act as rapporteur, and shall particularly consider:

- a) Whether any of the causes provided for by law which would lead to its immediate denial exists;
- b) Whether the formal requirements mentioned by Article 9 are met;
- c) Which persons or bodies should immediately be asked for information.

4 – The petitioner shall immediately be notified of the decision referred to by the previous paragraph.

5 – Whenever more than one petition displays an identical object and desired purpose, acting upon his own initiative or at the request of any parliamentary committee, the President of the Assembly of the Republic may order that they be combined in a single procedure.

6 – The competent parliamentary committee shall consider and take its decision in relation to petitions within sixty days counting from the date on which they are admitted.

7 – In the case provided for by Article 9(5), the time period laid down by the previous paragraph shall only commence on the date on which the shortcomings in question are overcome.

8 – Once the study of a petition is complete, a final report containing the steps deemed appropriate in accordance with Article 19 shall be drawn up and sent to the President of the Assembly of the Republic.

### **Article 18** **Computerised register**

1 – In order to ensure that petitions which are delivered to it are suitably managed and publicised, the Assembly of the Republic shall organise a computerised registration system for receiving petitions and handling the applicable procedure, and shall keep it up to date.

2 – The system shall provide complete information about the data contained in all the petitions which are made, including their full text and information about the procedure in relation to each of them, and shall centralise the data which is available in all of the departments and services involved.

3 – The system shall provide a model for sending and receiving petitions via Internet, which shall be simple to complete.

4 – Any citizen who possesses legitimacy under the terms of Article 4 may become a petitioner by subscribing to a pending petition within thirty days of the date on which it is admitted, to which end he shall send a written communication to the competent parliamentary committee declaring that he accepts the terms and the desired purpose expressed in the petition, and giving the personal details referred to by Article 6.

5 – Such subscription shall count for all legal purposes, and shall be communicated to the original petitioners.

### **Article 19** **Effects**

1 – The committee's study of each petition and the elements accompanying it may particularly result in:

- a) Their consideration by the Plenary of the Assembly of the Republic, in accordance with Article 24;
- b) Their referral, in the form of a copy of the originals, to the body with responsibility for the

matter in question, for consideration and for such decision as is appropriate for that body to make in the case in question;

- c) The drawing up of such legislative measure as may be warranted, for subsequent subscription by any Member or parliamentary group;
- d) Their communication, via the Prime Minister, to the minister with responsibility for the matter in question, for the purpose of a possible legislative or administrative measure;
- e) Their communication, via the legal channels, to any other authority with responsibility for the matter in question, with a view to the making of any measure that would lead to the solution of the problem raised by the petition;
- f) Their referral to the Attorney General, assuming that there are indications that penal action should be taken;
- g) Their referral to the Judicial Police, assuming that there are indications that a police investigation is warranted;
- h) Their referral to the Ombudsman, for the purposes of Article 23 of the Constitution;
- i) The commencement of a parliamentary inquiry;
- j) The petitioner being informed of rights of which he has proved himself unaware, of paths which he might pursue, or of stances which he might take, in order to secure recognition of a right, protection of an interest, or reparation for a loss;
- l) Clarifications being given to the petitioners, or to the general public, concerning any action which the State and other public bodies have taken in relation to the management of public affairs and which the petition has questioned or placed in doubt;
- m) The petition being archived, and the petitioner or petitioners being informed accordingly.

2 – The steps provided for by subparagraphs b), d), e), f), g), h), j) and l) of the previous paragraph shall be taken by the President of the Assembly of the Republic, at the request of, and upon a proposal from, the committee.

## **Article 20 Committee powers**

1 – During the study of, and the procedure in relation to, a petition, the parliamentary committee may hear the petitioners, ask any citizens to testify, and request and obtain information and documents from other bodies that exercise sovereign power or from any public or private bodies, without prejudice to the law governing state secrets, the confidentiality of legal proceedings, or professional confidentiality, and may ask the Public Administration to take the steps that prove necessary.

2 - The parliamentary committee may decide to hear the person in charge of a Public Administration department or service which is targeted by a petition.

3 – Once the committee has studied the issue raised by the petitioner, and upon a proposal by the rapporteur, the committee may ask the competent bodies to take a position on the matter.

4 – Compliance with requests made by the parliamentary committee in accordance with the present Article shall take priority over any other Public Administration services and shall occur within a maximum of twenty days.

5 – Requests provided for by the present Article shall make reference to the present Law and shall include a transcription of both the previous paragraph and Article 23.

## **Article 21 Hearing petitioners**

1 – Whenever a petition is signed by more than 1,000 citizens, the petitioners shall obligatorily be heard before the parliamentary committee, or a delegation thereof, during the study and procedural phase.

2 - The parliamentary committee may also decide to hold such a hearing for duly substantiated reasons of merit, with special regard to the interests at stake, their social, economic or cultural importance, and the gravity of the situation which forms the object of the petition.

3 – The provisions of the previous paragraphs shall not prejudice such steps as the rapporteur deems appropriate in order to obtain further information and prepare his report, including by contacting the petitioners.

## **Article 22 Conciliatory settlement**

1 – Once the procedures provided for by Articles 20 and 21 have been concluded and on condition that there are grounds for doing so, the parliamentary committee may also take steps to secure a conciliatory settlement.

2 – In the event that such a conciliatory settlement is sought, the committee chairman shall invite the body involved to correct the situation or repair the effects which gave rise to the petition.

## **Article 23 Sanctions**

1 – An unjustified failure to appear, a refusal to testify, or a failure to comply with the steps provided for by 20(1) shall constitute the crime of disobedience, without prejudice to the applicable disciplinary proceedings.

2 – One consequence of an unjustified failure to appear by the petitioners may be the archiving of the petition process in accordance with Article 16(3), whereupon the provisions of the previous paragraph shall not apply to them.

## **Article 24 Consideration by the Plenary**

1 - Petitions shall be considered in Plenary whenever either of the following conditions is met:

- a) They are signed by more than 4,000 citizens;
- b) The parliamentary committee produces a duly substantiated report favouring their consideration in Plenary, with special regard to the interests at stake, their social, economic or cultural importance, and the gravity of the situation which forms the object of the petition.

2 - Petitions which meet the conditions for consideration in Plenary shall be sent to the President of the Assembly of the Republic to be scheduled, together with the duly substantiated reports and any accompanying elements.

3 – Such petitions shall be scheduled for the Plenary within at most thirty days after they are sent to the President of the Assembly of the Republic, as per the previous paragraph.

4 – Without prejudice to the provisions of the following paragraphs, the subject matter of such a petition shall not be put to the vote.

5 - The competent committee may attach a draft resolution to its report, for debate and voting when the Plenary considers the petition.

6 – Any Member of the Assembly of the Republic may also submit an initiative with the petition as its basis, and if the Member who submits it so requests, the said initiative shall be debated and put to the vote in accordance with the previous paragraph.



7 – If the initiative referred to by the previous paragraph and the petition are scheduled for different times, the petition shall be called to the Plenary by mandate for joint consideration.

8 – Whenever a Plenary debate with the same subject matter as a pending petition which meets the conditions laid down by paragraph (1) above is scheduled, the petition shall also be called to the Plenary by mandate, on condition that the petitioner agrees thereto.

9 – Whatever happens shall be communicated to the petition's first signatory, who shall be sent a copy of the issue of the Journal of the Assembly of the Republic containing the text of the debate, any related proposal that was made, and the result of the vote thereon.

#### **Article 25**

#### **Petitions do not lapse**

Petitions that are not considered during the legislature in which they are made shall not require renewal in the following legislature.

#### **Article 26**

#### **Publication**

1 – The following petitions shall be published in full in the Journal of the Assembly of the Republic:

- a) Those signed by at least 1,000 citizens;
- b) Those whose publication has been ordered by the President of the Assembly of the Republic, in accordance with the committee decision.

2 – The reports concerning the petitions referred to by the previous paragraph shall also be published.

3 - The Plenary shall be informed of the essence of such petitions as are received, and of the measures which are taken in relation to them, at least twice in each legislative session.

#### **Article 27**

#### **Controlling results**

1 – At the initiative of the petitioners or of any Member of the Assembly of the Republic, the parliamentary committee may at any time decide to determine the state of progress, or the results, of the steps which have been taken as a result of the consideration of the petition.

2 – The approved report in relation to each case may give rise to new steps, and in any case shall be communicated to the petitioner and publicised on the Internet.

### **CHAPTER IV**

#### **Final provision**

#### **Article 28**

#### **Complementary regulations**

Within the scope of their constitutional responsibilities, the bodies and authorities covered by the present Law shall draw up rules and other measures which will tend to ensure that it is effectively complied with.