



Appendix 3

Law no. 62/2007

of September 10, 2007

The Legal Framework of Higher Education Institutions

In accordance with Article 161, sub-paragraph *c*) of the Constitution, the Assembly of the Republic hereby decrees as follows:

TITLE 1

General Principles and Provisions

Article 1

Object and scope

1 – The present law shall establish the legal framework for higher education institutions, namely creating rules for their constitution, responsibilities and organization, for the functioning and competency of their bodies and, still, for the tutelage and public supervision of the State over them, within the framework of their autonomy.

2 – The provisions of the present law shall apply to all higher education institutions, with the exceptions mentioned in Articles 179 and 180.

3 – The artistic and distance educations shall be the object of a special law, which will be approved within the framework of the basic principles of the present law.

Article 2

The mission of higher education

1 – The goal of higher education is the high qualification level of the Portuguese population, the production and dissemination of knowledge, the cultural, artistic, technological and scientific training of its students, within an international reference framework.

2 – The higher education institutions shall value the activity of their researchers, teachers and officials; stimulate the intellectual and professional training of their students; and guarantee the

conditions for all properly qualified citizens to have access to higher education and to lifelong learning.

3 – The higher education institutions shall promote the mobility of students and certified graduates, both at a national and international level, namely in the European Space of Higher Education.

4 – The higher education institutions shall have the right and the duty to participate, either alone or through their organic units, in activities of connection with the community, namely activities of dissemination and transfer of knowledge, and activities of economic valuation of the scientific knowledge.

5 – The higher education institutions shall also have the duty to contribute to the public understanding of the humanities, arts, science and technology, promoting and organizing actions of support to the dissemination of the humanistic, artistic, scientific and technological cultures, and providing the necessary resources for these purposes.

Article 3

The binary nature of the higher education system

1 – The higher education is organized in a binary system; the university education shall orient itself towards the offer of a solid scientific training, gathering efforts and competencies from education and research units, whereas the polytechnic education shall focus especially on professionally oriented vocational and advanced technical training.

2 – The organization of the binary system shall correspond to the demands of an increasingly diverse search for a higher education oriented towards the needs of those who finish secondary education and those who seek vocational and professional training and lifelong learning.

Article 4

Public and Private Higher Education

1 – The higher education system comprises:

- a) The public higher education composed of the state institutions and of the foundations created by the State, in accordance with the present law.

- b) The private higher education composed of the institutions belonging to private and cooperative entities.

2 – In accordance with the Constitution, the State shall have the responsibility to create a network of public higher education institutions which satisfies the needs of the country.

3 – In accordance with the Constitution and the present law, the right to create private higher education institutions is assured.

4 – The higher education institutions and the study cycles which grant academic degrees are not allowed to function in a franchise system.

Article 5

Higher education institutions

1 – The higher education institutions comprise:

- a) The university education institutions, which include the universities, the university institutes and other university education institutions;
- b) The polytechnic education institutions, which include the polytechnic institutes and other polytechnic education institutions.

2 – The university institutes and the other university and polytechnic higher education institutions share the same regime of the universities and polytechnic institutes, depending on the cases, including the autonomy and self-government, along with the necessary adjustments.

Article 6

University education institutions

1 – The universities, the university institutes and the further university education institutions are high level institutions oriented towards the creation, transmission and dissemination of culture, knowledge, science and technology, through the articulation of the study, the education, the research and the experimental development.

2 – The universities and university institutes shall grant the degrees of graduate, master and doctor, in accordance with the law.

3 – The further university education institutions shall grant the degrees of graduate and master, in accordance with the law.

Article 7

Polytechnic education institutions

1 – The polytechnic institutes and the further polytechnic education institutions are high level institutions oriented towards the creation, transmission and dissemination of the professional culture and knowledge, through the articulation of the study, the education, the oriented research and the experimental development.

2 – The polytechnic education institutions shall grant the degrees of graduate and master, in accordance with the law.

Article 8

Responsibilities of the higher education institutions

1 – The higher education institutions shall have the following responsibilities, within the scope of the role of each subsystem:

- a) The implementation of study cycles aiming at the granting of academic degrees, as well as the implementation of other postsecondary courses, postgraduate training courses and others, in accordance with the law;
- b) The creation of an adequate educational environment for the accomplishment of their goals;
- c) The promotion of research and the support and participation in scientific institutions;
- d) The transfer and economic valuation of the scientific and technological knowledge;
- e) The carrying out of professional training and knowledge updating courses;
- f) The rendering of services to the community and of support to its development;
- g) The cooperation and the cultural, scientific and technical exchange with national and foreign congenerous institutions;
- h) The contribution, within their scope of action, to the international cooperation and to the convergence of the Nations, especially the Portuguese-speaking countries and the European countries;
- i) The production and dissemination of knowledge and culture.

2 – The higher education institutions shall also grant equivalences and recognize degrees and academic qualifications, in accordance with the law.

Article 9

Nature and legal regime

1 – The public higher education institutions are collective persons of public law; however, they can also be public foundations under the private law regime, in accordance with the provisions of Chapter 6, Title 3.

2 – In everything that does not oppose the present law and further special laws, and with the exception of the provisions of Chapter 6, Title 3, the public higher education institutions are subject to the regime applicable to the other collective persons of public law with an administrative nature, namely to the framework law for public institutes, which works as a subsidiary right in everything incompatible with the provisions of the present law.

3 – The founding entities of private higher education institutions are collective persons of private law, and, therefore, the institutions do not have their own legal personality.

4 – The private higher education institutions are governed by private law in everything that does not oppose the present law or other applicable legislation, without prejudice to their subjection to the principles of impartiality and justice in the relations between the institutions and the teachers and students, namely as regards to the career progression procedures for the teachers and the access, enrolment and assessment procedures for the students.

5 – The following subjects are subject to a general regulation by special law, in accordance with the provisions of the present law and the applicable general laws:

- a) The access to higher education;
- b) The system of academic degrees;
- c) The conditions for awarding the academic degree of associate professor;
- d) The conditions for awarding the degree of specialist;
- e) The regime of equivalences and recognition of academic degrees and other qualifications;
- f) The creation, alteration, suspension and suppression of study cycles;
- g) The accreditation and assessment of the institutions and the study cycles.
- h) The financing of the public higher education institutions by the State budget, as well as the establishment of their tuition fees;
- i) The regime and carriers of the teaching and research staff of public institutions;
- j) The regime of the teaching staff of private institutions;
- k) The school social work;
- l) The official bodies for the representation of the public higher education institutions;

6 – As a special law, the present law and the laws mentioned in the previous paragraph are not affected by general laws, except as otherwise provided by law.

7 – Besides the legal and statutory norms and further regulations to which they are subject, the higher education institutions may define their codes of good practices concerning pedagogical, governance and management issues.

Article 10

Designation

1 – The higher education institutions shall have a distinctive designation, in Portuguese, which identifies them unequivocally, without prejudice to the combined use of versions of the same designation in foreign languages.

2 – The designation of an institution cannot be mistaken with the one of another education institution, public or private, or originate an ambiguity as to the nature of the education or the institution.

3 – The use of the terms “university”, “faculty”, “higher institute”, “university institute”, “polytechnic institute”, “higher school” and other expressions which might transmit the idea of institutions where higher education is given shall be exclusively used by higher education institutions.

4 – The designation of each education institution can only be used after its registration by the Minister responsible.

5 – The disregard of the provisions of the previous paragraphs constitutes grounds for rejecting or cancelling the registration of the designation.

Article 11

Autonomy of the higher education institutions

1 – The public higher education institutions shall have statutory, pedagogical, scientific, cultural, administrative, financial, patrimonial and disciplinary autonomy in relation to the State, with the differentiation adapted to their nature.

2 – The statutory, scientific, pedagogical, administrative and financial autonomy of the universities is recognized in Article 76, paragraph 2 of the Constitution.

3 – The private higher education institutions shall have a pedagogical, scientific and cultural autonomy in relation to their founding entity and to the State.

4 – Each higher education institution shall possess its own statutes which, in respect for the law, express the mission and the pedagogical and

scientific goals, establish the autonomy and define the organic structure of the institution.

5 – The autonomy of the higher education institutions does not preclude the governmental tutelage or supervision, either in the case of public or private institutions, nor the external accreditation and assessment, in accordance with the law.

Article 12

Diversity of organization

1 – In the scope of higher education, the diversity of institutional organization shall be ensured.

2 – Within the framework of their autonomy, and in accordance with the law, the higher education institutions are freely organized according to what will better fit their mission and the specificity of the context in which they are inserted.

Article 13

Organic units

1 – The universities and polytechnic institutes may comprise autonomous organic units, with their own bodies and staff, namely:

- a) Education units or education and research units;
- b) Research units;
- c) Libraries, museums, and others.

2 – The schools and the research units may possess self-government and management autonomy bodies, in accordance with the present law and the statutes of the institution.

3 – The organic units, by their own initiative or by a governmental regulation, may share material and human resources, as well as organize joint initiatives, including study cycles and research projects.

4 – The schools of the universities are denominated faculties or higher institutes, although they may also adopt another adequate denomination, in accordance with the statutes of the respective institution.

5 – The schools of the polytechnic institutes are denominated higher schools or higher institutes, although they may also adopt another adequate denomination, in accordance with the statutes of the respective institution.

6 – Whenever necessary, under condition of approval by the Minister responsible, preceded by a favourable decision of the Coordinating Council for Higher Education, the polytechnic education schools may, exceptionally and together with a statement of

reasons, be integrated in universities, maintaining their polytechnic nature for all other purposes, including the Statute of the Teaching Career, although mergers of polytechnic institutes with universities are not permitted.

7 – The universities and polytechnic institutes may create organic units outside their head offices, in accordance with the statutes, which shall be subject to this law and be obligated, in the case of schools, to fulfil the respective requisites, namely concerning accreditation and registration of courses, facilities and equipments, and teaching staff.

Article 14

Organic units and other research institutions

1 – The organic research units are denominated centres, laboratories, institutes, but they may also adopt another appropriate denomination, in accordance with the statutes of the respective institution.

2 – The research units may be created, with or without the statute of organic units, associated with universities, organic units of the universities, university institutes and other university education institutions, polytechnic institutes, organic units of polytechnic institutes, and other polytechnic education institutions.

3 – There may also be created research institutions common to several higher education institutions, universities or polytechnics, or to their organic units.

4 – The provisions of the present law do not interfere with the application of the regulations of the higher education institutions to the scientific research and technological development institutions created within their scope, namely concerning their own organization, autonomy and scientific responsibility.

Article 15

Private law entities

1 – In accordance with their statutes, the public higher education institutions may, by themselves or through their organic units, namely with their own incomes, freely create, alone or together with other private or public entities, be part of, or incorporate subsidiary entities of private law, such as foundations, associations and societies aimed at helping them to accomplish their goals.

2 – Following the last paragraph, there may be created, namely:

- a) Societies for the development of higher education, which associate the resources of the higher education institutions, or of their organic units, and private resources;
- b) Consortiums between higher education institutions, or their organic units, and research and development units;

3 – The public higher education institutions, as well as their autonomous organic units, may delegate certain tasks to the entities mentioned in the previous paragraphs, including the implementation of non-degree courses, by means of a protocol, which shall clearly define the conditions for the delegation, without prejudice to their scientific and pedagogical responsibility and superintendence.

Article 16

Cooperation between institutions

1 – The higher education institutions may freely establish association or cooperation agreements between themselves and other institutions aimed at the promotion of students and teachers mobility, and at the achievement of common partnerships and projects, including combined degree programs in accordance with the law and share of resources and equipments, either based on the territorial aggregation criteria or on the sectorial aggregation criteria.

2 – In accordance with the statutes of the respective higher education institutions, the organic units of a higher education institution may also be associated with organic units of other higher education institutions, aiming at a joint coordination for the implementation of their activities.

3 – The Portuguese higher education institutions may be freely integrated into networks and establish partnership and cooperation relations with foreign higher education institutions, foreign or international scientific organizations and other institutions, namely within the European Union, bilateral or multilateral agreements signed by the Portuguese State, and also establish relations with Portuguese-speaking countries, aiming at the goals mentioned in the previous paragraph.

4 – The international cooperation activities and programs shall be compatible with the nature and goals of the institutions and shall bear in mind the major guidelines for Portuguese politics, namely in terms of education, science, culture and international relations.

Article 17

Consortiums

1 – In order to coordinate the training offer and the human and material resources, the public higher education institutions may establish consortiums between themselves and with research and development institutions, public or private.

2 – The consortiums mentioned in the previous paragraph may equally be created by the initiative of the Government, through a ministerial order of the Minister responsible, after consultation with the institutions.

3 – The public higher education institutions may also agree between themselves on ways to articulate their regional activities, which may also be determined by the Minister responsible, after consultation with the institutions.

4 – The consortiums and agreements mentioned in the previous paragraphs do not interfere with the identity and autonomy of each institution involved.

5 – As long as the provisions of Articles 42 and 44 are met, the Government may authorize the adoption of the denomination of university or polytechnic institute, respectively, by the consortiums mentioned in the previous paragraphs.

Article 18

Associations and representative bodies

1 – The higher education institutions may associate or cooperate with one another regarding the institutional representation or the joint coordination and regulation of the activities and initiatives.

2 – The law creates and regulates the bodies of the official representation and coordination of the public higher education institutions.

3 – The bodies of the official representation of the public higher education institutions shall guarantee the general representation, as well as, through the appropriate representation mechanisms of the schools, the representation according to training areas.

4 – In accordance with the statutes of the respective higher education institution, the organic units of a higher education institution may equally be associated with organic units of other higher education institutions concerning the joint coordination for the accomplishment of their activities.

Article 19

Participation in the education and research policies

1 – The higher education institutions have the right and the duty to participate, alone or through their representative organizations, in the elaboration of the Portuguese policies, delivering their opinion on the legislative projects which directly concern them.

2 – The representative organizations of the higher education institutions shall be consulted about:

- a) Legislative initiatives concerning higher education and scientific research;
- b) The territorial planning of higher education.

3 – The public higher education institutions still have the right to be consulted about the criteria for the establishment of financial resources allocated by the State and of the tuition fees for the study cycles which grant academic degrees.

Article 20

School social action and other educational supports

1 – The State, in its relationship with the students, shall assure the existence of a school social action system which promotes the access to higher education and a successful attendance, with a positive discrimination of the economically underprivileged students with an adequate school performance.

2 – The school social action shall ensure that no student is excluded from the higher education system due to financial incapacity.

3 – In the scope of the school social action system, the State shall give direct and indirect support, managed in a flexible and decentralized way.

4 – The modalities of direct social support are:

- a) Scholarships;
- b) Emergency support;

5 – The modalities of indirect social support are:

- a) Access to food and accommodation;
- b) Access to health services;
- c) Support to sport and cultural activities;
- d) Access to other educational supports.

6 – In its relationship with the students, the State shall still guarantee other support structures, namely:

- a) The granting of merit scholarships to students with an outstanding school performance;
- b) The granting of support to students with special needs, namely to disabled students;
- c) The promotion of the implementation of a loans system necessary for the “autonomization” of the students;

Article 21

Student membership drive

1 – The higher education institutions shall support student membership drive and provide the conditions necessary for the assertion of autonomous associations, under the special legislation in force.

2 – The higher education institutions shall also stimulate the artistic, cultural and scientific activities and promote spaces for experimentation and support to the development of extracurricular competencies, namely a collective and social participation.

Article 22

Student worker

1 – The higher education institutions shall create the necessary conditions to support the student workers, namely through ways of organization and attendance appropriate to their situation, and they shall also value the competencies obtained during their working experiences.

Article 23

Former students

1 – The higher education institutions shall establish and support the connection to former students and respective associations, facilitating and promoting their contribution to the strategic development of the institutions.

Article 24

Support to the integration into the labour market

1 – The higher education institutions shall, within their social responsibility:

- a) Support the participation of students in the labour market in conditions which are

- appropriate to the simultaneous development of their academic activity;
- b) Reinforce the conditions for the development of the offer of part-time professional activities by the institution to the students, in conditions which are appropriate to the simultaneous development of their academic activity;
- c) Support the integration of their graduates into the labour market.

2 – Each institution must gather and disseminate information concerning the employment conditions of its graduates, as well as their professional experiences.

3 – The State shall ensure the public accessibility of that information, as well as its quality and comparability, namely through the adoption of common methodologies.

Article 25

Student Ombudsman

1 – There is a student ombudsman in each higher education institution, in the terms established by their statutes, who develops his or her activity in articulation with the students associations and with the bodies and services of the institution, namely the pedagogical bodies and their organic units.

Article 26

Responsibilities of the State

1 – The State shall, within the scope of higher education, perform the following tasks established in the law and in the Constitution, namely:

- a) Create and maintain the network of public higher education institutions and guarantee their autonomy;
- b) Ensure the freedom of creation and functioning of private higher education institutions;
- c) Stimulate the modernization and internationalization of the higher education institutions;
- d) Assure the high pedagogical, scientific, technological and cultural levels of the higher education institutions;
- e) Encourage the scientific research and the technological innovation;
- f) Guarantee the participation of teachers, researchers and students in the management of higher education institutions;

- g) Ensure the public dissemination of the information regarding the educational projects, the higher education institutions and their study cycles;
- h) Evaluate the scientific, pedagogical and cultural quality of the education;
- i) In accordance with the law, finance the public higher education institutions and support the private higher education institutions;
- j) Support investments and initiatives which promote improvements on the quality of education.

2 – The State promotes lifelong education, in order to guarantee a permanent learning, the access of all properly qualified citizens to the highest degrees of education, of scientific research and of artistic creation, and the academic and professional achievement of students.

Article 27

Competencies of the Government

1 – In order to accomplish the responsibilities established in the previous Article, and without prejudice to other competencies provided for legally, the Government shall:

- a) Create, modify, merge, separate, and suppress public higher education institutions;
- b) Grant and revoke the recognition of public interest to private higher education institutions;

2 – The Minister responsible shall, specifically:

- a) Verify the fulfilment of the necessary requirements for the creation and functioning of the higher education institutions;
- b) Register the denomination of the higher education institutions;
- c) Certify or register, depending on the case, the statutes of higher education institutions and its amendments;
- d) Certify the election of the rector or president of public higher education institutions;
- e) Intervene in the process of establishment of the maximum number of new admissions and enrolments in accordance with Article 64;
- f) Promote the dissemination of information concerning the education institutions and their study cycles;

- g) Supervise the execution of the law and apply the sanctions provided for in the law in case of an infringement.

Article 28

State funding and support

1 – The funding of public higher education institutions and the support to private higher education institutions is carried out in accordance with special law.

2 – The granting of public support to the private higher education institutions follows the principles of publicity, objectivity and non-discrimination.

Article 29

Registrations and publicity

The Minister responsible shall organize and maintain update an official record of public access comprising the following data regarding the higher education institutions and their activity:

- a) Higher education institutions and their most relevant characteristics;
- b) Consortiums of higher education institutions;
- c) Existing study cycles which aim at awarding academic degrees and, whenever the case, a list of the regulated professions;
- d) Teachers and researchers;
- e) Results of the accreditation and assessment of the higher education institutions and their study cycles;
- f) Statistical information, namely about the vacancies, candidates, enrolled students, degrees and diplomas conferred, teachers, researchers, other staff, school social action and public funding;
- g) Employability of the holders of academic degrees;
- h) General database of the higher education graduates;
- i) Other relevant data, established by a ministerial order of the Minister responsible.

Article 30

Obligations of the founding entities of private higher education institutions

1 – The founding entities of private higher education institutions shall:

- a) Create and guarantee the conditions for the normal functioning of the education

institution, ensuring the administrative, economic and financial management;

- b) Submit the statutes of the education institution and its amendments to the approval and register by the Minister responsible;
- c) Provide the institution with the appropriate facilities and equipment, as well as with the necessary human and financial resources;
- d) Maintain a valid insurance contract or be endowed with an asset base for an appropriate coverage of the maintenance of human and material resources, essential for the functioning of the higher education institution;
- e) Nominate and remove from office, in accordance with the statutes, appointed members of the directive body of the education institution;
- f) Approve the plans of activities and the budgets elaborated by the bodies of the education institution;
- g) Certify their accounts with the help of an official public account;
- h) Establish the students' tuitions and other fees regarding their enrolment in study cycles offered by the institution, after consultation with its directive body;
- i) Recruit teachers and researchers, on a proposal from the rector, president or director of the education institution, after consultation with the respective Scientific or Technical-Scientific Board;
- j) Recruit non-teaching staff;
- k) Request the accreditation and registration of the study cycles, after the Scientific or Technical-Scientific Board and the rector, president or director of the education institution have delivered their opinion;
- l) Maintain, according to the standards of authenticity and safety, academic records which include, namely, the candidates wishing to enrol in that education institution, the admitted students, the number of enrolments, the final grade on each curricular unit, the academic equivalences and recognition of qualifications and the degrees and diplomas conferred by the institution as well as their respective final classification or qualification;

2 – The competencies of the founding entities shall be exercised without prejudice of the pedagogical, scientific and cultural autonomy of the education institution, in accordance with the provisions of the constitutive act of the founding entity and the statutes of the institution.

TITLE 2

Institutions, organic units and study cycles

CHAPTER 1

Form and procedure of the creation of institutions

Article 31

Public higher education institutions

1 – The public higher education institutions are established by Law-Decree.

2 – The creation of public higher education institutions shall follow the national planning of the public higher education network and shall bear in mind their necessity and sustainability.

Article 32

Private higher education institutions

1 – The private higher education institutions may be created by entities legally considered as foundations, associations or cooperatives which were specifically created for this purpose, as well as by non-profit cultural and social entities which include higher education amongst their objectives.

2 – The private higher education institutions may also be created by entities legally considered as private or public limited companies which were specifically created for this purpose, as long as:

- a) In the moment of foundation, a list of all members is created, specifying their respective participations, as well as a list of all members of the administrative and supervision bodies, or a list of all the share holders with significant direct or indirect participations;
- b) Any adjustments to the information mentioned in the previous subparagraph shall be reported to the responsible body of the Minister responsible within thirty days after they have taken place.

3 – The recognition of the foundations whose objective includes the creation of higher education institutions is a responsibility of the Minister responsible, in accordance with Article 188 of the Portuguese Civil Code.

4 – The founding entities of private higher education institutions shall fulfil the proper requirements of institutional competence and financial sustainability, and they shall, compulsorily, offer patrimonial guarantees or insurances considered satisfactory.

Article 33

Recognition of public interest

1 – The founding entities of private higher education institutions request to the Minister responsible the recognition of public interest of the respective institutions, once the requisites established in the law are met.

2 – The recognition of public interest of a private higher education institution determines its integration into the higher education system, including the power to grant official academic degrees.

3 – With the exception of for-profit institutions, the founding entities of private higher education institutions enjoy the rights and benefits of a collective person of public utility regarding the activities connected with the creation and functioning of that institution.

4 – The functioning of a private higher education institution can only begin after the recognition of public interest and the registration of the respective statutes.

5 – The maintenance of the requirements for the recognition of public interest shall be supervised at least once every ten years, as well as whenever there is any indication that the requirements are not being met.

6 – In the case of violation of any of the requirements for the recognition of public interest of a private higher education institution, the recognition is revoked, in accordance with this law.

Article 34

Decision on the requests for recognition of public interest

The decision on the requests for recognition of public interest of a private higher education institution is taken within a maximum period of six months after the process instruction by the founding entity is completed, which includes the accreditation of the initially offered study cycles, not inferior in number to those provided for in Articles 42 and 45.

Article 35

Form of the recognition of public interest

1 – The recognition of public interest of an education institution is established by Law-Decree.

2 – The recognition diploma shall include, namely:

- a) The denomination, nature and head office of the founding entity;
- b) The denomination and location of the education institution;
- c) The nature and goals of the education institution;
- d) The study cycles, whose initial functioning was authorized.

3 – The statutes of the education institution are registered together with the recognition of public interest, through a ministerial order by the Minister responsible.

Article 36

Functioning of a non-recognized institution

1 – In accordance with this law, the functioning of a private higher education institution without the previous recognition of public interest determines:

- a) The immediate closure of the institution;
- b) The irrelevance, for all purposes, of the courses offered by the institution;
- c) The automatic refusal of the request for recognition of public interest which had already been or would be presented during the following three years by the same founding entity regarding the same or another education institution.

2 – The measures mentioned in the previous paragraph are determined by a ministerial dispatch issued by the Minister responsible.

3 – The closure of the institution is carried out by the administrative and police authorities after communication of the respective ministerial dispatch.

Article 37

Transmission, integration and merger of an institution

The transmission, integration and merger of private higher education institutions shall be previously reported to the Minister responsible and the respective recognition may be revoked based on the alteration of the requirements and circumstances

necessary for the granting of the recognition of public interest.

Article 38

Installation period

1 – Generally, a university or polytechnic institute starts functioning in an installation regime.

2 – In the public higher education institutions, the installation regime is specially characterized by:

- a) These institutions are guided by provisional statutes, approved by the Minister responsible;
- b) Their government and management bodies are freely appointed and removed from office by the Minister responsible.

3 – In the organic units of the public higher education institutions, the installation regime is specially characterized by:

- a) These units are guided by provisional statutes, approved by the General Board of the institution;
- b) Their government and management bodies are freely appointed and removed from office by the rector or president of the institution.

4 – The services of the Minister responsible guarantee a special monitoring of the institutions in an installation regime and they elaborate and submit an annual report on these institutions to the Minister responsible.

5 – During the installation period, the higher education institutions benefit from the provisions of Article 46.

6 – The installation regime shall have a maximum period of five school years since the beginning of teaching.

7 – The institutions must begin the process leading to the cessation of the installation regime within a maximum period of six months before the end of the installation period.

8 – The installation regime may end at any moment:

- a) In the case of the public higher education institutions, it may end due to the certification of the respective statutes elaborated in accordance with the present law, and when the bodies created by these statutes begin their activities;
- b) In the case of the private higher education institutions, it may end by an order of the

Minister responsible, issued following the request by the respective founding entity.

CHAPTER 2

Requirements of the institutions

Article 39

Equality of requirements

The creation and activity of the higher education institutions are subject to the same array of essential requirements, general and specific, according to the university or polytechnic nature of the institutions and both in public and private institutions.

Article 40

General requirements for the higher education institutions

1 – The following are general requirements for the creation and functioning of a higher education institution:

- a) Possess an educational, scientific and cultural project;
- b) Be provided with facilities and material resources appropriate to the nature of the institution, namely school spaces, equipments, libraries, and laboratories, adequate to the study cycles that these institutions intend to offer;
- c) Possess a training offer compatible with the university or polytechnic nature of the institution;
- d) Possess a teaching staff of their own, appropriate in number and qualification to the nature of the institution and to the degrees that they are qualified to offer;
- e) Guarantee the scientific and pedagogical autonomy of the institution, including the existence of a scientific and pedagogical direction of the institution, of the organic units, when they exist, and of the study cycles;
- f) Guarantee the participation of teachers, researchers and students in the management of the institution;
- g) Ensure the high pedagogical, scientific and cultural level of the institution;
- h) Guarantee the social action services;
- i) Guarantee the rendering of services to the community.

Article 41

Facilities

1 – The study cycles which aim at granting an academic degree can only function in authorized facilities by the Minister responsible.

2 – The requirements for the facilities are defined by a ministerial order by the Minister responsible.

Article 42

Requirements for the universities

Besides the other requisites established by law, the minimum requirements for the creation and functioning of an education institution, such as a university, are to act according to the goals and nature defined in Article 6 and fulfil the following requirements:

- a) To be authorized to offer at least:
 - i) Six first-degree study cycles, two of which are technical-laboratorial;
 - ii) Six master study cycles;
 - iii) One PhD cycle from at least three different areas compatible with the mission of the university education;
- b) Possess a teaching staff in accordance with the provisions of Chapter 3 of the present Title;
- c) Be provided with facilities with the necessary conditions to offer a higher education and with libraries and laboratories adequate to the nature of the study cycles;
- d) Develop activities in the areas of education and research, as well as concerning the creation, dissemination and transmission of culture;
- e) Possess evaluated and recognized research and development centres, or be part of them.

Article 43

Requirements for the university institutes

Besides the other requisites established by law, the minimum requirements for the creation and functioning of an education institution, such as a university institute, are to act according to the goals and nature defined in Article 6 and fulfil the following requirements:

- a) To be authorized to offer at least:
 - i) Three first-degree study cycles;
 - ii) Three master study cycles;

iii) One PhD cycle from an area or areas compatible with the mission of the university education;

b) Fulfil the requirements mentioned in sub-paragraphs b) and e) of the previous Article.

Article 44

Requirements of the polytechnic institutes

Besides the other requisites established by law, the minimum requirements for the creation and functioning of an education institution, such as a polytechnic institute, are to act according to the goals and nature defined in Article 7 and fulfil the following requirements:

- a) Integrate, at least, two schools from different areas;
- b) To be authorized to offer at least four first-degree study cycles, two of which technical-laboratorial, from at least two different areas compatible with the mission of the polytechnic institute;
- c) Possess a teaching staff of its own, in accordance with the provisions of Chapter 3 of the present Title;
- d) Be provided with facilities with the characteristics required for polytechnic education, as well as libraries and laboratories adequate to the nature of the study cycles;
- e) Develop oriented research activities.

Article 45

Requirements for other higher education institutions

1 – The education institutions which are authorized to offer at least one first-degree study cycles and one master study cycle may be created as the other university higher education institutions.

2 – The education institutions which are authorized to offer at least one first-degree study cycle may be created as the other polytechnic higher education institutions.

3 – The higher education institutions mentioned in the previous paragraphs shall follow the further requirements applicable to the universities or to the polytechnic institutes, according to their nature.

Article 46

Institutions during the installation phase

1 – During the installation phase, the universities and university institutes:

- a) Offer, at least, half of the array of study cycles mentioned, respectively, in sub-paragraph a) of Article 42 and in sub-paragraph a) of Article 43;
- b) As regards to the requirements mentioned in sub-paragraph e) of Article 42, these institutions are only required to participate in already evaluated and recognized research and development centres.

2 – During the installation phase, the polytechnic institutes offer, at least, half of the study cycles mentioned in sub-paragraph b) of Article 44.

CHAPTER 3

Teaching staff

Article 47

Teaching staff of the university education institutions

1 – The teaching staff of the university education institutions shall fulfil the following requirements:

- a) For each study cycle, fulfil the established requirements, in special law, for its accreditation;
- b) From amongst the group of teachers and researchers who develop teaching and research activities, possess, at any capacity, at least one professor with a PhD degree for each thirty students;
- c) At least half of the PhDs mentioned in the previous sub-paragraph shall be in a full-time position.

2 – The teachers and researchers mentioned in sub-paragraphs b) and c) of the previous paragraph:

- a) If in a full-time position, can only be considered for that purpose in that institution;
- b) If in a part-time position, cannot be considered for that purpose in more than two institutions.

Article 48

Specialist degree

1 – The specialist degree is awarded in the polytechnic education, according to provisions to be established by Decree-Law.

2 – The specialist degree confirms the quality and special relevance of the professional curriculum in a certain area.

Article 49

Teaching staff of the polytechnic education institutions

1 – The teaching staff of the polytechnic education institutions shall fulfil the following requirements:

- a) For each study cycle, fulfil the established requirements, in special law, for its accreditation;
- b) From amongst the group of teachers and researchers who develop teaching and research activities, possess, at any capacity, at least one specialist degree-holder or one professor with a PhD degree for each thirty students;
- c) From amongst the group of teachers and researchers who develop teaching or research activities, possess, at any capacity, at least 15% of PhD holders in a full-time basis and, besides these, at least 35% shall be specialist degree-holders, who may equally be awarded with a PhD degree.

2 – The majority of the teachers awarded with the specialist degree shall develop a professional activity in the degree area.

3 – The teachers and researchers mentioned in sub-paragraphs *b)* and *c)* of paragraph 1:

- a) If in a full-time position, can only be considered for that purpose in that institution;
- b) If in a part-time position, cannot be considered for that purpose in more than two institutions.

Article 50

Stability of the teaching and research staff

In order to guarantee their scientific and pedagogical autonomy, the higher education institutions shall have permanent teachers and researchers, who shall benefit from a reinforced status of employment stability (*tenure*), in accordance with the dimension and the conditions

established in the Statutes of the Teaching and Scientific Research Careers.

Article 51

Accumulations and incompatibilities of the teachers

1 – The teachers of public higher education institutions in a full-time position may, when authorized by the respective institution, accumulate teaching functions in another higher education institution, as long as they do not exceed the maximum limit established by the respective career statute.

2 – The teachers of private higher education institutions may, in accordance with respective career statute, accumulate teaching functions in another higher education institution.

3 – The accumulation of teaching functions in private higher education institutions by teachers of other higher education institutions, public or private, besides the other constraints provided for legally, requires communication:

- a) By the teacher to the responsible bodies of the respective higher education institutions;
- b) By the higher education institutions to the General-Directorate for Higher Education.

4 – The public and private higher education institutions may establish cooperation protocols aiming at the accumulation of teaching functions in accordance with the conditions and restrictions mentioned in the previous sub-paragraphs.

5 – The teachers of public higher education institutions in a full-time position:

- a) Cannot be part of the directing bodies of another higher education institution;
- b) Can be members of the Scientific, Technical-Scientific or Pedagogical Boards of other higher education institution.

Article 52

Teaching staff of the private higher education institutions

1 – The teachers of private higher education institutions shall be provided with a parallel career to that of the teachers of public higher education institutions, within the education institutions where they are rendering their services.

2 – The teaching staff of private higher education institutions shall possess the same qualifications and degrees which are legally required to the exercise of their functions in the respective category within the public higher education.

Article 53

Regime of the teaching and research staff of the private institutions

The regime of the teaching and research staff of private institutions is approved by Decree-Law.

CHAPTER 4

Merger, integration, division and transfer of higher education institutions

SECTION 1

Public higher education

Article 54

Measures for the rationalization of the public higher education

1 – The State shall promote the rationalization of the network of public higher education institutions and their training offer.

2 – The measures for the rationalization of the network may include, namely, the creation of higher education institutions, their merger, integration, division or suppression, the adjustments on the number of new admissions or on the maximum number of students, and the creation, suspension or cessation of study cycles.

Article 55

Merger, integration, division and suppression of public higher education institutions

1 – The public higher education institutions are suppressed by Decree-Law, after the results of the evaluation have been considered and after consultation with the bodies of the institution involved, as well as with the representative bodies of the public higher education institutions and the Higher Education Coordinating Board.

2 – The public higher education institutions may be merged, integrated or divided in the same conditions.

3 – The Decree-Law which establishes the suppression, merger, integration or division of the

institutions takes into account, together with the proper adjustments, the principles established by the general norms applicable in this matter and determines the measures to secure:

- a) The rights of the students;
- b) The rights of the staff, in accordance with the law;
- c) The documental archive of the institution.

SECTION 2

Private higher education

Article 56

Voluntary closure

1 – The founding entities of private higher education institutions may close the education institutions or cease to offer study cycles.

2 – The decisions mentioned in the previous paragraph shall include measures to protect the interests of the students, and these decisions are the entire responsibility of the founding entities and are subject to certification by the Minister responsible.

Article 57

Merger, integration and transfer

1 – The private higher education institutions may be merged, integrated or transferred through a decision of the corresponding founding entities.

2 – The suppression or dissolution of the founding entity implies the closure of the corresponding education institutions and the closure of the study cycles, except when the institutions are transferred to another founding entity.

3 – The closure of an education institution, in the situation mentioned in the previous paragraph, is declared on a dispatch by the Minister responsible.

4 – The transfer implies the verification of the fulfilment of the necessary requirements by the new founding entity.

Article 58

Protection of the documentation

1 – The essential documentation of a closed private education institution is kept by the respective founding entity, except when:

- a) The closure results from the suppression or dissolution of the founding entity;
- b) It is recommended due to circumstances connected with the functioning of the founding entity.

2 – In the cases mentioned in sub-paragraphs *a)* and *b)* of the previous paragraph, the Minister responsible determines which will be the entity responsible for the protection of the essential documentation.

3 – The entity responsible for protecting the essential documentation shall issue any documents referring to the period of functioning of the closed education institution which may be requested.

4 – For the purpose of this Article, the essential documentation refers to the certification of the developed teaching and administrative activities, namely minute books of the directing bodies, book-keeping, contracts of teachers, records of the teaching service, books of terms and the files of students.

5 – Whenever these documents are considered necessary for other purposes, namely legal purposes, trustworthy copies shall be produced under the responsibility of the entity mentioned in paragraphs 1 and 2.

CHAPTER 5

Creation, transformation, division, merger and suppression of organic units

Article 59

Creation, transformation, division, merger and suppression

1 – The creation, transformation, division, merger and suppression of organic units of a higher education institution are a responsibility of:

- a) The General Board, in the case of the public education institutions;
- b) The founding entity, in the case of private education institutions, after consultation with the institution bodies.

2 – The creation, transformation, division, merger and suppression of public higher education institutions requires a previous authorization of the Minister responsible and shall take into account, along with the proper adjustments, the principles established by the general norms applicable in this matter.

Article 60

Organic Subunits

The creation, transformation, division, merger and suppression of organic subunits of a higher education institution are carried out in accordance with the statutes.

CHAPTER 6

Study cycles

Article 61

Creation, accreditation and registration of study cycles

1 – The higher education institutions enjoy the right to create study cycles which aim at awarding academic degrees.

2 – The creation of study cycles which aim at awarding academic degrees shall be a responsibility:

- a) In the public higher education institutions, of the rector or the president, after consultation with the Scientific or Technical-Scientific Board and the Pedagogical Board;
- b) In the private higher education institutions, of the founding entity, after consultation with the rector, president or director, the Scientific or Technical-Scientific Board and the Pedagogical Board.

3 – The beginning of the study cycles which aim at awarding academic degrees requires the accreditation of the Assessment and Accreditation Agency for Quality Insurance in Higher Education and the subsequent registration in the Minister responsible.

4 – The accreditation and registration regime of the study cycles is commonly applied to all higher education institutions, distinguishing the first-degree, master and PhD study cycles and the university or polytechnic nature of these cycles.

5 – The request for registration of the study cycles requires the presentation of a documented form according to the conditions established by the law.

6 – The registration of a study cycle implies the recognition of the degree or degrees conferred, with general validity.

Article 62

Functioning of the non-registered study cycles

1 – The functioning of a study cycle which aims at awarding an academic degree without its previous registration determines:

- a) The preliminary rejection of the request;
- b) The closure of the study cycle;
- c) The impossibility to register this cycle or any other similar cycles during the following two years.

2 – The programmes of unregistered study cycles cannot be recognized or granted equivalence for the purpose of awarding higher education degrees.

3 – The higher education institutions have the obligation to clearly inform if the study cycles that they offer confer an academic degree or not, indicating, in the case of conferring, the data of the corresponding registration.

Article 63

Revocation of the accreditation and registration

1 – The non-fulfilment of the legal requirements or of the statutory provisions, as well as the non-observance of the criteria which have justified the accreditation and registration of the study cycles determine their revocation.

2 – The revocation of the accreditation is carried out by means of a decision of the Assessment and Accreditation Agency for Quality Insurance in Higher Education.

Article 64

Quantitative restrictions

1 – The maximum number of new admissions per year, as well as the maximum number of students who may be enrolled in each studies cycle per school year is annually established by the higher education institutions, well in advance, taking into account the resources of each institution, namely as for the teaching staff, facilities, equipments and financial resources.

2 – The establishment of the limits mentioned in the previous paragraph is subject to the restrictions resulting from the legal criteria established for the functioning of the education institutions and for the accreditation of the study cycles, including the possible restrictions which were established by the accreditation action.

3 – As regards to the public higher education institutions, the establishment of the limits mentioned in paragraph 1 is still subordinated to the

general guidelines established by the Minister responsible, after consultation with the representative bodies of the institutions, namely taking into account the rationalization of the training offer, the Portuguese policies for human resources training and the available resources.

4 – The higher education institutions communicate annually to the Minister responsible the limits established for the first-degree study cycles and for the integrated study cycles of the master degrees in the terms of the previous paragraphs, together with the respective statement of reasons.

5 – In the case of an unclear and insufficient statement of reasons regarding the limits established, of an infringement of the legally applicable norms or of the non-fulfilment of the general guidelines established in paragraph 3, the restrictions mentioned in the previous paragraphs may be altered by a dispatch of the Minister responsible published in *Diário da República* (the Portuguese Official Journal).

6 – The Minister responsible carries out the dissemination of the limits established for the first-degree study cycles and for the integrated study cycles of the master degrees.

7 – The limits established in the previous paragraphs may not be transferred between higher education institutions.

TITLE 3

Organization and management of the public higher education institutions

CHAPTER 1

General Principles

Article 65

Organization and management

The public higher education institutions shall adopt, in accordance with the law, the model of institutional organization and management according to what will better fit their mission and the specificity of the context in which they are inserted.

CHAPTER 2

Statutes

Article 66

Statutory Autonomy

The public higher education institutions shall have statutory autonomy, in compliance with the provisions of the present law.

Article 67

Object of the Statutes

1 – The statutes shall define the mission of the institution, while respecting its nature and the provisions of the constitutive act, whenever this latter exists, and shall comprise the fundamental norms for its internal organization and functioning, in the scientific, pedagogical, disciplinary, financial and administrative areas, in accordance with the provisions of the present law and other applicable laws.

2 – The statutes shall regulate, namely:

- a) The responsibilities of the institution;
- b) The structure of the government and management bodies, the composition and the ways to elect or designate its members, the duration of the terms of office and the conditions for their termination;
- c) The competencies of the several bodies;
- d) The autonomy regime for the organic units and their respective bodies.

Article 68

Approval and revision of the Statutes

1 – In the moment of their creation, the public higher education institutions shall be provided with provisory statutes, approved by an order of the Minister responsible, and which shall remain in force during the period of installation.

2 – The statutes of public higher education institutions may be revised:

- a) Four years after the publication of the last revision;
- b) At any moment, by a decision of two thirds of the members of the General Board exercising their functions.

3 – The alteration of the statutes requires an approval of at least two thirds of the members of the General Board.

4 – The amendments to the statutes may be suggested by:

- a) The rector or president, according to the case;
- b) Any member of the General Board.

Article 69

Certification and publication of the Statutes

1 – The statutes and its amendments require a governmental certification, which is given or refused within 60 days, through a normative dispatch from the Minister responsible.

2 – The certification takes into account the legality of the statutes or its amendments and its refusal shall only be based on the non-observance of the Constitution or the law or on the irregularities during their elaboration process in relation to the provisions of the present law or to their own statutes.

3 – When the revision of the statutes includes measures which, according to the law, require an approval of the Minister responsible, the refusal of certification may be based on the rejection of the mentioned approval.

CHAPTER 3

Academic autonomy

Article 70

Autonomy in the definition of the mission

1 – Within the framework of the Basic Law of the Educational System and the further legislation, each public higher education institution shall define its goals and educational and research programs in accordance with its vocation and available resources, without prejudice to the provisions of its creation diploma and to the fulfilment of the goals agreed with the State.

2 – Each institution shall determine the creation, transformation or suppression of organic units and study cycles, in accordance with the law, without prejudice to the necessity of a ministerial certification or approval, in accordance with the present law and complementary legislation.

Article 71

Academic autonomy

1 - The public higher education institutions have cultural, scientific, pedagogical and disciplinary autonomy, in accordance with the law.

2 – The schools and the research units also have academic autonomy, namely scientific and pedagogical autonomy, in accordance with the statutes of the institution which they are part of and with their own statutes.

Article 72

Cultural autonomy

The cultural autonomy provides the institutions with the capacity to define their training program and cultural initiatives.

Article 73

Scientific autonomy

The scientific autonomy provides the public higher education institutions with the capacity to define, plan and implement research and further scientific activities, without prejudice to the criteria and procedures for the public funding of the research.

Article 74

Pedagogical autonomy

The pedagogical autonomy provides the public higher education institutions with the capacity to elaborate study plans, define the object of the curricular units, define the teaching methods, assign the resources and choose the knowledge assessment processes, providing teachers and students with a place to exercise their intellectual freedom during the teaching and learning processes.

Article 75

Disciplinary autonomy

1 – The disciplinary autonomy provides the public higher education institutions with the capacity to penalize, in accordance with the law and the statutes, teachers, researchers, further officials and agents, and students for their disciplinary infractions.

2 – The exercise of the disciplinary power shall be guided by the following norms:

- a) The Disciplinary Statute of the Officials and Agents of the Central, Regional and Local Administration, in the case of public officials and agents;
- b) The Labour Code and the law on the legal regime of the employment contract for Public Administration, in the case of staff under an individual employment contract;
- c) The provisions of paragraphs 4, 5 and 6, as well as the statutes and specific regulations, in the case of students, with

subsidiary application of the regime provided for in sub-paragraph a).

3 – In the case of public officials, the consequences for infractions are established in the Disciplinary Statute of the Officials and Agents of the Central, Regional and Local Administration.

4 – The following are disciplinary infractions of students:

- a) The negligent failure to fulfil any of the obligations established in the law, in the statutes and in the regulations;
- b) The practice of violent acts or physical and psychological coercion over other students, namely, during the periods of the *praxes académicas* (the freshmen reception).

5 – The following are sanctions applicable to the disciplinary infractions of students, according to their gravity:

- a) Warning;
- b) Fine;
- c) Temporary suspension from school activities;
- d) Suspension from school assessment for the period of one year;
- e) Exclusion from attending the institution for a period of 5 years.

6 – The disciplinary power shall belong to the rector or president, depending on the case, and it may be delegated to the directors or presidents of the organic units, without prejudice to the right of appealing to the rector or president.

CHAPTER 4

Self-government and management autonomy

SECTION 1

Government bodies

Article 76

Self-government

The public higher education institutions shall be provided with self-government bodies, in accordance with the law and the statutes.

Article 77

Government bodies of the universities and university institutes

1 – The governance of universities and university institutes is a responsibility of the following bodies:

- a)* General Board;
- b)* Rector;
- c)* Management Board.

2 – In order to ensure the cohesion of the university and the participation of all organic units in its management, the statutes may provide for the creation of an academic senate, composed of representatives of the organic units, as a body of compulsory consultation by the rector concerning the matters established in the statutes.

3 – Besides the bodies provided for in the previous paragraphs, the statutes may foresee the existence of other advisory bodies.

Article 78

Government bodies of the polytechnic institutes

1 – The governance of polytechnic institutes is a responsibility of the following bodies:

- a)* General Board;
- b)* President;
- c)* Management Board.

2 - Besides the bodies provided for in the previous paragraph, the statutes may foresee the existence of other advisory bodies.

Article 79

Other institutions

1 – The governance of the remaining institutions is a responsibility of the following bodies:

- d)* General Board;
- e)* Director or President;
- f)* Management Board.

2 - Besides the bodies provided for in the previous paragraph, the statutes may foresee the existence of other advisory bodies.

Article 80

Scientific or Technical-Scientific Board and Pedagogical Board

1 – The higher education institutions shall possess the following bodies:

a) At the school level:

- i.* In the university education, a Scientific Board and a Pedagogical Board;
- ii.* In the polytechnic education, a Technical-Scientific Board and a Pedagogical Board;

b) In the organic research units, a Scientific Board;

2 – The statutes of each institution may establish ways of cooperation and articulation among the Scientific or Technical-Scientific Boards and among the Pedagogical Boards of each institution, or create bodies with their own competencies within the scientific or technical-scientific and pedagogical areas.

3 – Since they are not organized in faculties, institutes or schools, the university higher education institutions, which do not possess a Scientific Board and a Pedagogical Board in each of these, shall be provided with a scientific and a Pedagogical Board for the institution itself.

SECTION 2

General Board

Article 81

Composition of the General Board

1 – The General Board is composed of 15 to 35 members, according to the dimension of each institution and to the number of their schools and organic research units.

2 – The members of the General Board are:

- a)* Representatives of the teachers and researchers;
- b)* Representatives of the students;
- c)* Other personalities of recognized merit, not part of the institution but with relevant knowledge and experience for this one.

3 – The members mentioned in sub-paragraph *a)* of the previous paragraph:

- a)* Are elected by the teachers and researchers of the higher education institution, through the system of

proportional representation, in accordance with the statutes;

- b) Shall represent more than half of all members of the General Board.

4 – The members mentioned in sub-paragraph *b)* of paragraph 2:

- a) Are elected by the students of the higher education institution, through the system of proportional representation, in accordance with the statutes;
- b) Shall represent at least 15% of all members of the General Board.

5 – The members mentioned in sub-paragraph *c)* of paragraph 2:

- a) Are coopted by all the members mentioned in sub-paragraphs *a)* and *b)* of paragraph 2, through an absolute majority, in accordance with the statutes, based on proposals signed by at least a third of those members;
- b) Shall represent at least 30% of all members of the General Board.

6 – In the polytechnic higher education institutions, during this process of selecting the members mentioned in sub-paragraph *c)* of paragraph 2, it shall be taken into account that these institutions are specially characterized in terms of their institutional organization by the following principles:

- a) Insertion in the corresponding territorial community;
- b) Connection to the professional and business activities corresponding to their specific vocation or to certain areas of expertise, aiming at promoting a solid superior professional training.

7 – The General Board may comprise, in accordance with the statutes, members elected by the non-teaching and non-researchers staff.

8 – The term of office of the elected or appointed members shall be four years, with the exception of the one of the students which shall be two years, during which they cannot be removed from office, except by the General Board, through an absolute majority, in the case of a serious infraction, in accordance with the regulations of the body itself.

9 – The members of the General Board do not represent sectorial groups or interests and shall be independent in the performance of their functions.

10 – Whenever the results of the calculations mentioned in sub-paragraphs *b)* of paragraphs 4 and 5 contain a decimal part, they shall be rounded down to the nearest whole number.

Article 82

Competencies of the General Board

1 – The General Board shall:

- a) Elect its president, through an absolute majority, from amongst the members mentioned in sub-paragraph *c)*, paragraph 2 of the previous Article;
- b) Approve its rules of procedure;
- c) Approve the amendments to the statutes, in accordance with paragraphs 2 to 4 of the previous Article;
- d) Organize the election procedures and elect the rector or president, in accordance with the law, the statutes and the applicable regulation;
- e) Evaluate the actions of the rector or president and of the Management Board;
- f) Propose the initiatives considered necessary for a good functioning of the institution;
- g) Perform the further duties established in the law and in the statutes.

2 – The General Board shall, on a proposal from the rector or president:

- a) Approve the medium-term strategic plans and the action plan for the four-year period of the term of office of the rector or president;
- b) Approve the general guidelines of the institution for the scientific, pedagogical, financial and patrimonial areas;
- c) Create, transform or suppress organic units;
- d) Approve the annual plans of activities and evaluate the annual report on the activities of the institution;
- e) Approve the budget proposal;
- f) Approve the annual consolidated accounts, accompanied by the opinion of the statutory auditor;
- g) Establish the tuition fees for students;
- h) Propose or authorize, in accordance with the law, the acquisition or alienation of real estate belonging to the institution, as well as the credit operations;

- i)* Deliver its opinion concerning the other matters submitted by the rector or president.

3 – The decisions mentioned in sub-paragraphs *a)* to *d)* and *f)* of paragraph 2 are compulsorily preceded by the evaluation of an opinion, which shall be elaborated and approved by the external members mentioned in sub-paragraph *c)*, paragraph 2 of the previous Article.

4 – The decisions of the General Board are approved by a single majority, with the exception of the cases when the law or the Statutes require an absolute majority or even more demanding majority requirements.

5 – The General Board may ask for the opinions of other bodies of the institution or of its organic units, namely the advisory bodies, regarding all the matters under its responsibility.

Article 83

Competencies of the President of the General Board

1 – The president of the General Board shall:

- a)* Summon and preside at the meetings;
- b)* Declare and verify the vacancies in the General Board and conduct the necessary replacements, in accordance with the statutes;
- c)* Perform the further tasks assigned to him or her by the statutes.

2 – The president of the General Board does not interfere with the performance of the functions of other bodies of the institution, and it is not his or her duty to represent it or speak in its behalf.

Article 84

Meetings of the General Board

1 – The General Board has ordinary meetings four times a year, besides the extraordinary meetings summoned by the president, through his or her own initiative, as a response to a request by the rector or president of the institution or by a third of its members.

2 – Through a decision of the General Board, the following may attend the meetings, without the right to vote:

- a)* The directors of the organic units;
- b)* Personalities invited to give their opinion concerning matters of their expertise.

3 – The rector or president attends the meetings of the General Board, without the right to vote.

SECTION 3

Rector and President

Article 85

Functions of the rector and of the president

1 – The rector of the university or university institute or president of the polytechnic institute is the highest body of management and external representation of the institution.

2 – The rector or president is the body for the conduct of the institution's policies and presides over the Management Board.

Article 86

Election

1 – The rector or president is elected by the General Board, in accordance with statutes of each institution and according to the procedures established in the regulations.

2 – The election procedures include, namely:

- a)* The public announcement of the opening of candidacies;
- b)* The presentation of candidacies;
- c)* The public audition of the candidates, with the presentation and discussion of their action programme;
- d)* The final voting by the General Board requires a majority, and it is conducted by secret vote.

3 – Teachers and researchers of their institution or of other higher education or research institutions, national or foreign, may be elected rectors of a university.

4 – The following may be elected presidents of a polytechnic institute:

- a)* Teachers and researchers of their own institution or of other higher education or research institutions, national or foreign;
- b)* Personalities of recognized merit and relevant professional experience.

5 – The following cannot be elected rectors or presidents:

- a) Pensioners;
- b) Those who been found guilty of a disciplinary infraction, financial or penal, in the exercise of their public or professional duties, during the four years after completing the sentence;
- c) Those who are excluded because of other ineligibilities provided for in the law.

6 – The Minister responsible can only refuse to homologate the election of the rector or president based on ineligibility, on illegality of the election procedures or on violation of the general rules and principles of the Administrative Procedure Code.

Article 87

Duration of the term of office

1 – The term of office of the rector or president shall be four years, and it may be renewed only once, in accordance with the statutes.

2 – In the case of an early cessation of the term of office, the new rector or president begins a new mandate.

Article 88

Vice-rectors and vice-presidents

1 – The rector and the president are assisted by the vice-rectors and the vice-presidents, in accordance with the statutes of the institution.

2 – The vice-rectors and vice-presidents are freely appointed by the rector and by the president, and they may be part of the institution.

3 – The vice-rectors and vice-presidents may be removed from office at any time by the rector or president and their term of office ends with the cessation of the term of office of the rector or president.

4 – The statutes may create other ways to assist the rector and the president.

Article 89

Removal from office of the rector and of the president

1 – In a situation of threat to the institution, the General Board, summoned by the president or by a third of its members, may deliberate, by a majority of two thirds, the suspension of the rector or of the president and, after the administrative procedures

and by the same majority, his or her removal from office.

2 – The decisions to suspend or remove from office the rector or the president can only be taken at meetings specially summoned for that purpose.

Article 90

Exclusive dedication

1 – The rector and the president shall perform their duties in exclusive dedication.

2 – In the case of being teachers or researchers of the respective institution, the rectors, presidents, vice-rectors and vice-presidents are exempt from working in this area, although, by their own initiative, they may continue to perform their duties as teachers and researchers.

Article 91

Replacement of the rector and the president

1 – Whenever the rector or president is temporarily unable to perform his or her assigned duties, he or she will be replaced by the appointed vice-rector or vice-president or, in the case of lack of appointment, he or she will be replaced by the oldest one.

2 – If the president or rector is unable to perform his or her duties for more than 90 days, the General Board shall deliver its opinion regarding the election or not of a new rector or president.

3 – In the case of vacancy, resignation or permanent incapacity by the rector or president, the General Board shall begin the elections procedure within a maximum period of 8 days.

4 – During the vacancy of the office of rector or president, as well as in the case of suspension in the terms of the previous Article, the position will be internally carried out by the vice-rector or vice-president chosen by the General Board or, when these are not present, according to the procedures established in the statutes.

Article 92

Competence of the rector and the president

1 – The rector or president runs and represents the university, the university institute or the polytechnic institute, respectively, and he or she shall, namely:

- a) Elaborate and submit to the General Board the proposals regarding:

- i.* The medium-term strategic plans and the action plan for the four-year period of his or her term of office;
 - ii.* The general guidelines of the institution in the scientific and pedagogical areas;
 - iii.* The annual plan and report on the activities;
 - iv.* The annual consolidated budget and accounts, accompanied by the opinion of the statutory auditor;
 - v.* The acquisition or alienation of real estate belonging to the institution, as well as the credit operations;
 - vi.* The creation, transformation and suppression of organic units;
 - vii.* The tuition fees for the students.
- b)* Approve the creation, suspension or suppression of courses;
 - c)* Approve the maximum number of new admissions and enrolments mentioned in Article 64;
 - d)* Superintend the academic management, namely deciding on the opening of competitions, the appointment and recruitment, at any capacity, the appointment of juries for the competitions and for academic exams, and the system and regulations for the assessment of teachers and students;
 - e)* Direct and superintend the administrative and financial management of the institution, ensuring the effectiveness in the application of its means and resources;
 - f)* Within the framework of the school social action, give support to students;
 - g)* Approve the awarding of titles and honorific distinctions;
 - h)* Create school awards;
 - i)* Certify the elections and appointments of members for the management bodies of the organic units with a self-government, which he or she can only refuse based on illegality;
 - j)* Nominate and remove from office, in the accordance with the law and the statutes, the directors of organic units without self-government;
 - k)* Nominate and remove from office, in accordance with the law and the statutes, the administrator and the directors of the institution's services;
 - l)* Exercise the disciplinary power, in accordance with the present law and the statutes;
 - m)* Guarantee the implementation of the decisions taken by the collegial bodies of the institution;
 - n)* Approve the regulations provided for in the law and in the statutes, without prejudice to

the legal power of the organic units within the scope of their own competencies;

- o)* Supervise the observance of the laws, the statutes and the regulations;
- p)* Propose the initiatives considered necessary for the good functioning of the institution;
- q)* Perform the further duties established in the law and in the statutes;
- r)* Communicate to the Minister responsible all the necessary data, namely the plans and budgets and the reports of the activities and accounts;
- s)* Take the necessary measures to guarantee the quality of education and research in the institution and its organic units;
- t)* Represent the institution.

2 – All of the other competencies which, by the law or the statutes, are not assigned to other bodies of the institution shall be a responsibility of the rector or president.

3 – In order to ensure the best functioning of the organic units, the statutes of the institution shall:

- a)* Within the framework of schools provided with their own bodies and management autonomy, establish the competencies of the rector or president which are assigned to the bodies of the school;
- b)* May provide for the assignment of some of the competencies of the rector or president to the bodies of other organic units;
- c)* May establish that the exercise of certain competencies be compulsorily preceded by a consultation of the other bodies.

4 – The rector or president may, in accordance with the law and the statutes, delegate the competencies that they consider necessary for a more efficient management of the institution to the vice-rectors or vice-presidents and to the management bodies of the institution or its organic units.

5 – The decisions on the matters mentioned in sub-paragraphs *g)*, *h)* and *m)* of paragraph 1 regarding the application of serious penalties, may be conditioned by the statutes to a favourable opinion of another body.

Article 93

Direction of the remaining institutions

1 – The directors or presidents of the remaining higher education institutions shall be elected in accordance with the provisions of Article 86.

2 – The directors or presidents may be assisted, in accordance with the respective statutes, by deputy directors or vice-presidents.

3 – The provisions established in the previous Articles regarding the rectors and presidents and the vice-rectors and vice-presidents are applicable to the directors or presidents and deputy directors and vice-rectors, respectively.

SECTION 4

Management Board

Article 94

Composition of the Management Board

1 – The Management Board is appointed and presided over by the rector or president, depending on the case, and it is composed of a maximum of five members, in accordance with the statutes of the institution, including a vice-rector or vice-president and the administrator.

2 – The directors or presidents of the organic units, the persons responsible for the services of the institution and representatives of the students and of the non-teaching and non-researchers staff may be summoned to participate at the meetings of the Management Board, without the right to vote.

Article 95

Competence of the Management Board

1 – The Management Board shall perform the administrative, patrimonial and financial management of the institution, as well as the management of the human resources; the legislation in force for the public bodies with administrative autonomy is also applicable to this body.

2 – The Management Board shall also establish the charges and fees.

3 – The Management Board may, in accordance with the statutes, delegate the competencies considered necessary for a more efficient management to the bodies of the organic units and to the directors of the services.

SECTION 5

Government and management of the organic units with their own bodies and management autonomy

Article 96

Statutes of the organic units

1 – The schools and the organic research units which are provided with their own bodies and management autonomy by the statutes of the institution are ruled by their own statutes, in the respect of the law and the statutes of the institution.

2 – The statutes shall be certified by the rector or president of the institution, depending on the case, in order for him or her to verify its legality and conformity with the statutes and regulations of the institution.

Article 97

Structure of the bodies

The schools and the organic research units mentioned in the previous Article possess the structure established by the statutes of the institution, once observed the following requirements:

- a) They must have a single executive body, as director or president of the unit;
- b) In the case of a representative collegial body:
 - i. Shall not have more than 15 members;
 - ii. Shall have, at least, 60% of teachers and researchers;
 - iii. Shall include representatives of the students;
 - iv. May include representatives of the non-teaching and non-researcher staff, as well as external entities;
 - v. Shall elect the director or president.

Article 98

Competencies

The competencies of the bodies are established by the statutes of the organic units, in the respect of the law and the statutes of the institution.

Article 99

Financial Supervision

In the case of having financial autonomy, the organic units are subject to supervision by the financial supervision body of the institution they belong to.

Article 100

Competencies of the director or president of the organic unit

The director or president of the organic unit shall:

- a) Represent the organic unit before the other bodies of the institution and before external entities;
- b) Preside over the body with management competencies, direct the services of the organic unit and approve the necessary regulations;
- c) Approve the calendar and schedule of classes, after consultation with the Scientific or Technical-Scientific Board and the Pedagogical Board;
- d) Implement the binding decisions of the Scientific or Technical-Scientific Board and the Pedagogical Board;
- e) Exercise the disciplinary power assigned to him or her by the statutes or delegated by the rector or president of the institution;
- f) Elaborate the budget and the plan of activities, as well as the report on activities and accounts;
- g) Perform the further duties established in the law and in the statutes;
- h) Perform the duties delegated to him or her by the rector or president of the institution.

Article 101

Limitation of terms of office

The director or president of the organic unit shall not serve more than eight consecutive years.

SECTION 6

Scientific, Technical-Scientific and Pedagogical Boards

Article 102

Composition of the Scientific or Technical-Scientific Board

1 – In university education, in the universities, in its schools, in the university institutes and in the remaining university institutions, the Scientific Board is composed of:

a) Representatives elected, in accordance with the statutes and the regulations of the organic unit, from amongst the group of:

- i. Career teachers and researchers;
- ii. Remaining teachers and researchers in a full-time position, with an employment contract not less than one year, with a PhD degree, independently of their legal relationship with the institution;

b) Representatives of the research units, which were recognized and positively evaluated in accordance with the law:

- i. Chosen in accordance with the statutes and the regulations of the organic unit;
- ii. According to a number established in the statutes, not less than 20% or more than 40% of all the members of the Board, although it can be less than 20% if the number of research units is inferior to that number.

2 – The majority of the members mentioned in sub-paragraph a) of the previous paragraph are elected from amongst career teachers and researchers.

3 – In polytechnic education schools, the Technical-Scientific Board is composed of:

a) Representatives elected, in accordance with the statutes and the regulations of the organic unit, from amongst the group of:

- i. Career teachers;
- ii. Treated as teachers in a full-time position, with an employment contract with the school of more than ten years in this category;
- iii. Teachers with a PhD degree, in a full-time position, with an employment contract not less than one year, independently of the nature of their legal relationship with the institution;
- iv. Teachers with the degree of specialist not included in the previous sub-paragraphs, in a full-time position, with an employment contract for more than two years with the institution;

- b) Representatives of the research units, which were recognized and positively evaluated in accordance with the law:
 - i. Chosen in accordance with the statutes and the regulations of the organic unit;
 - ii. According to a number established by the statutes, not less than 20% or more than 40% of all the members of the Board, although it can be less than 20% if the number of research units is inferior to that number.

4 – In the organic research units, the Scientific Board is composed of representatives elected, in accordance with the statutes and the regulations of the organic unit, from amongst a group of:

- a) Career teachers and researchers;
- b) Remaining teachers and researchers in a full-time position, with an employment contract not less than one year, with a PhD degree, independently of their legal relationship with the institution.

5 – The statutes may establish the possibility of the Scientific or Technical-Scientific Board to also have the participation of invited members, from amongst other teachers or researchers of other institutions, or personalities of recognized merit in areas of importance to the mission of the institution.

6 – The Scientific or Technical-Scientific Board is composed of a maximum of 25 members.

7 – Whenever the number of eligible members is inferior to the one established in the statutes, the Board is composed of all of these, without prejudice to the provisions of sub-paragraph b), paragraph 1.

8 – The statutes decide on the presidency of the Scientific or Technical-Scientific Board, and they may assign it to the director or president of the organic unit.

Article 103

Competencies of the Scientific or Technical-Scientific Board

1 – The Scientific or Technical-Scientific Board shall, namely:

- a) Elaborate its regulations;
- b) Evaluate the plan of scientific activities of the unit or institution;
- c) Deliver its opinion regarding the creation, transformation or suppression of organic units of the institution;

- d) Decide on the distribution of the teaching staff, submitting it to the certification of the rector or president or to the director or president of the school, depending on the case;
- e) Deliver its opinion regarding the creation of study cycles and approve the plans of study for the offered study cycles;
- f) Propose or deliver its opinion regarding the awarding of honorary titles and distinctions;
- g) Propose or deliver its opinion regarding the creation of school awards;
- h) Propose or deliver its opinion regarding the establishment of agreements and international partnerships;
- i) Recommend the composition of the juries of exams and academic competitions;
- j) Perform the further duties established in the law concerning the teaching and research careers and the recruitment of teaching and research staff;
- k) Perform the further duties assigned to it by the law and by the statutes.

2 – The members of the Scientific or Technical-Scientific Board cannot pronounce themselves on matters regarding:

- a) Actions related to the career of teachers with a higher category than theirs;
- b) Competitions or exams, if they gather the conditions necessary to be candidates.

Article 104

Pedagogical Board

1 – The Pedagogical Board is composed of an equal number of representatives of the teaching and non-teaching staff of the institution or school, elected in accordance with the statutes and regulations.

2 – The statutes decide on the presidency of the Pedagogical Board, and they may choose to assign it to the director or president of the organic unit.

Article 105

Competencies of the Pedagogical Board

The Pedagogical Board shall:

- a) Pronounce itself on the pedagogical guidelines and on the teaching and assessment methods;
- b) Promote the conduction of regular surveys on the pedagogical performance of the organic unit or institution and their analysis and dissemination;
- c) Promote the assessment of the pedagogical skills of teachers by the teachers themselves and by the students, as well as its analysis and dissemination;
- d) Evaluate the complaints about the pedagogical flaws and put forward the necessary measures;
- e) Approve the regulation for assessing the performance of students;
- f) Pronounce itself regarding the prescriptions system;
- g) Pronounce itself regarding the creation of study cycles and the plans for the offered study cycles;
- h) Pronounce itself regarding the creation of school awards;
- i) Perform the further duties assigned to it by the law and by the statutes.

SECTION 7

Incompatibilities and Impediments

Article 106

Independence and conflict of interests

1 – The office holders and members of the government and management bodies of the public higher education institutions shall be exclusively at the service of the public interest of their institutions and independent in the exercise of their functions.

2 – The rectors and vice-rectors of universities and the presidents and vice-presidents of polytechnic institutes, the directors or presidents of the respective organic units, as well as the directors or presidents and deputy directors or vice-presidents of the remaining higher education institutions cannot be part of any government or management bodies of other higher education institutions, public or private.

3 – The statutes shall define the further incompatibilities and impediments of office holders or members of the bodies of public higher education institutions.

4 – The existence of any incompatibility implies the loss of the term of office and the ineligibility for any of the positions provided for in paragraph 2 for a period of four years.

SECTION 8

Salary System

Article 107

Remuneration of office holders of government and management bodies

The salary system of office holders of government and management bodies of public higher education institutions and their organic units is established by Decree-Law, after consultation with the representative bodies of the institutions.

CHAPTER 5

Patrimonial, administrative and financial management

SECTION 1

Common norms

Article 108

Management autonomy

The public higher education institutions shall have patrimonial, administrative and financial autonomy, in accordance with the law.

Article 109

Patrimonial autonomy

1 – The public higher education institutions shall have patrimonial autonomy.

2 – The patrimony of each public higher education institution shall be composed of all the assets and rights that were transferred by the State or by other public or private entities for the accomplishment of their goals, as well as of the assets purchased by the institution itself.

3 – The patrimony of each public higher education institution is composed of, namely:

- a) The immovable property purchased by the institution or constructed, even if on lands belonging to the State, after, depending on the case, the coming into force of Law No. 108/88, 24th of September, and Law No. 54/90, 5th of September;
- b) The immovable property in the private domain of the State which, in legal

terms, has been transferred to the patrimony of the institution.

4 – The public higher education institutions may administer assets from the public or private domains of the State or of any other territorial collectivity which have been transferred by their holder to the institution, in accordance with the requirements established in the law and in the protocols signed with these entities.

5 – The public higher education institutions may purchase or rent land or facilities essential for their good functioning, in accordance with the law.

6 – The public higher education institutions make free use of their patrimony, with the exception of the limitations established in the law and in the statutes.

7 – The alienation, exchange and encumbrance of the patrimony or the assignment of surface rights shall be authorized by a joint order issued by the Ministry of Finance and the Minister responsible.

8 – The immovable property, which is part of the patrimony of the non-university public higher education institutions and which has stopped being necessary to the responsibilities and competencies of the institution, shall be, with the exception of those which have been built or purchased through the exclusive resort to the institution's own incomes or acquired by donation, incorporated in the patrimony of the State, by means of a joint order issued by the Ministry of Finance and by the Minister responsible, after consultation with the institution.

9 – The percentage resulting from the alienation of the immovable property of public higher education institutions which reverts to them is established by a joint order by the Ministry of Finance and the Minister responsible and:

- a) It is included in investment expenses;
- b) It cannot be inferior to 50%;
- c) It can be up to 100% whenever it is exclusively assigned to the construction, rehabilitation or acquisition of assets intended to teaching, research and development activities.

10 – The public higher education institutions shall promote the continuous updating of the inventory of their patrimony and the cadastre of the assets in the public or private domain of the State which are under their responsibility.

Article 110

Administrative autonomy

1 – The public higher education institutions shall have administrative autonomy, and their actions are

only subject to a judicial review, with the exception of the cases provided for in the law.

2 – In the exercise of their administrative autonomy, the public higher education institutions may:

- a) Issue regulations in the situations provided for in the law and in the statutes;
- b) Practice administrative procedures;
- c) Celebrate administrative contracts.

3 – With the exception of urgent situations, properly justified, the approval of the regulations is preceded by the dissemination of the projects and their discussion by all concerned, during the period of one month.

Article 111

Financial autonomy

1 – The public higher education institutions shall have financial autonomy, in accordance with the law and their statutes, managing freely their financial resources based on the criteria which they have established for themselves, including the annual funds from the State budget.

2 – In the exercise of their financial autonomy, the public higher education institutions shall:

- a) Elaborate their pluriannual plans;
- b) Elaborate and implement their budgets;
- c) Liquidate and collect their incomes;
- d) Authorize expenses and carry out payments;
- e) Make budget alterations, with the exception of those under the responsibility of the Assembly of the Republic and those which are not compatible with the allocation of revenues.

3 – The public higher education institutions may have, as long as they are covered by the institutions' own revenues, movable and immovable property insurances and also sickness and risk insurances for their officials, agents and other staff on mission, or for foreign individuals who will temporarily perform duties in any of these institutions.

4 – The foreign currency expenses of the public higher education institutions may be directly liquidated, by resorting to the banking services considered by them to be the most appropriate and efficient.

Article 112

Budget transparency

The public higher education institutions have an obligation to give solicited information to the State as a guarantee of budget stability and reciprocal solidarity, as well as the obligation to provide information to the community, in an accessible and rigorous way, regarding their financial situation.

Article 113

Guarantees

1 – The budgetary system of the public higher education institutions shall observe the following rules:

- a) Reliability of the estimates of revenues and expenses, certified by the statutory auditor;
- b) Consolidation of the budget and the accounts of the institution and their organic units;
- c) Effectiveness of the use of the available financial resources;
- d) Obligation to give solicited information regarding the instruments of previsional management and accountability to the Ministry of Finance and to the Minister responsible;
- e) Subjection to the supervision and inspection of the Ministry of Finance.

2 – The public higher education institutions shall be subject to the National Plan of Public Accounts for the Education Sector (POC – Education).

3 – The public higher education institutions shall be subject to the provisions of the law regarding the budgetary balance and the discipline of public finances.

4 – The rules applicable to the public higher education institutions relating to the budgetary balance are:

- a) For those which have already adopted the National Plan of Public Accounts for the Education Sector and which have their accounts certified, the ones established in paragraph 2, Article 84 of Law No. 91/2001, 20th of August, amended by the Basic Law No. 2/2002, 28th of August, and by Laws No. 23/2003, 2nd of July, and 48/2004, 24th of August, without prejudice to the simultaneous application of paragraphs 3 and 4 of Article 25 of the same diploma, in accordance with the criteria established by a joint order issued by the Ministry of Finance and the Minister responsible.

- b) For the remaining institutions, the ones established in Article 25 of Law No. 91/2001, 20th of August.

5 – In the case of non-fulfilment of the provisions of the previous paragraph, the public higher education institutions may be penalized in the following financial year, at the time of the implementation of the budget, with a deduction of their funds from the State budget equivalent to 100% of the registered deficit, without prejudice to the financial responsibility in question.

6 – In the case of unjustified non-fulfilment of the obligations to inform mentioned in this Article, as well as of the respective deadlines, for each month in arrears, up to 10% of the twelfth part of the current transferences from the State budget may be retained.

7 – The decisions which determine or authorize illegal expenses and expenses without budget cover shall be null and imply financial responsibility.

Article 114

Revenue and expenditure balances

1 – The legal provisions which lay down the obligation to return to Government coffers the revenue and expenditure balances resulting from the allocations transferred from the State budget are not applicable to public higher education institutions.

2 – The use by the public higher education institutions of the revenue and expenditure balances resulting from the allocations transferred from the State budget do not require an authorization of the Ministry of Finance and of the Minister responsible.

3 – The alterations to the privative budgets of public higher education institutions which will be reflected in the application of the revenue and expenditure balances do not require an authorization of the Ministry of Finance and of the Minister responsible.

Article 115

Revenues

1 – The revenues of the public higher education institutions shall be composed of:

- a) The government budget appropriations;
- b) The revenues resulting from the payment of tuition fees and other attendance charges of the study cycles and other training courses;
- c) The revenues resulting from the research and development activities;
- d) The revenues from intellectual property;

- e) The revenues from their own assets or from other assets which they use;
- f) The revenues resulting from the rendering of services, the expression of opinions and the selling of publications and other products from their activity;
- g) The subsidies, subventions, contributions, donations, inheritances and legacies;
- h) The revenues resulting from selling or renting immovable property, when authorized by law, as well as other assets;
- i) The interest from deposit accounts and the value of other financial applications;
- j) The revenue and expenditure balances from previous years;
- k) The product of charges, fees, fines, penalties or of any other legal revenues;
- l) The borrowed funds;
- m) The revenues resulting from pluriannual financing contracts signed with the State;
- n) Other revenues provided for in the law.

2 – The public higher education institutions may resort to credit in the conditions established in the law, by means of an authorization through a joint order of the Ministry of Finance and the Minister responsible.

3 – With the exception of the allocations transferred from the State budget and of the balances of revenue and expenditure accounts resulting from the allocations transferred from the State budget, the public higher education institutions may deposit the other collected revenues at any bank.

4 – The revenues mentioned in the final part of the previous paragraph are managed by the public higher education institutions through their respective privative budgets, in accordance with the criteria which they have established for themselves.

5 – The financial applications of each public higher education institution shall be conducted in the Treasury, except for an application which does not exceed 25% of its total amount.

6 – The principle of non-appropriation of revenue is not applicable to:

- a) The revenues transferred from the State budget which are aimed at financing specific expenses or projects;
- b) The revenues which, in accordance with the law or the contract, are aimed at covering certain expenses.

Article 116

Tax exemption

The public higher education institutions and their organic units shall be exempt from taxes, charges, costs, emoluments and stamps.

Article 117

Statutory auditor

The patrimonial and financial management of public higher education institutions shall be controlled by a statutory auditor, appointed, from amongst other official auditors, by a joint order of the Ministry of Finance and the Minister responsible, after consultation with the rector or president, and with the competencies established in the outline law of public institutes.

Article 118

Financial supervision

1 – Without prejudice to the audits conducted by the State, the public higher education institutions shall promote external audits, carried out by audit companies of recognized merit.

2 – The external audits are carried out every two years: the first one shall be carried out during the first half of the term of office of the rector or president, whereas the second one shall take place three months before the end of the term of office.

3 – The reports of the audits mentioned in the previous paragraphs, as well as the annual reports of the statutory auditor, are submitted to the Ministry of Finance and to the Minister responsible.

SECTION 2

Staff

Article 119

General principles

1 – Each public higher education institution shall be provided with the necessary human resources to accomplish their goals, notwithstanding the outsourcing of services.

2 – The public higher education institutions shall recruit and promote their teachers and researchers, as well the remaining staff, in accordance with the law.

3 – The regime of the teaching and research staff is defined in a special law.

Article 120

Permanent staff

1 – The number of positions available for the permanent teaching and research staff, as well as for any other staff of each public higher education institution is established by an order of the Minister responsible through the application of the criteria set up by Decree-Law.

2 – The distribution of the vacancies available for permanent staff according to the different categories, in the case of the teaching and research staff, and to the different careers and categories, in the case of the remaining staff, shall be carried out by each public higher education institution, notwithstanding that the Minister responsible may establish, through an order, general rules regarding this subject.

Article 121

Restrictions on appointment and recruitment

1 – The maximum number of teachers, researchers and other staff, independent of the applicable legal regime, which each institution may appoint or recruit, shall be established by an order of the Minister responsible through the application of the criteria set up by Decree-Law.

2 – The recruitment of staff with an individual employment contract, whose expenses are completely covered through the institution's own revenues, including the ones regarding research and development projects, independent of their origin, is not subject to any restrictions.

Article 122

Duration of the individual temporary employment contracts

The maximum duration of the individual temporary employment contracts for the elaboration of research and development projects is established in a special law.

Article 123

Administrator

1 – The public higher education institutions have an administrator, chosen from amongst other people with knowledge and experience in the management area, capable to deal with the current management of the institution and with the coordination of its services, under the direction of the rector or president.

2 – The administrator is independently appointed and removed from office by the rector or president.

3 – The administrator shall be member of the Management Board and has the responsibilities established by the statutes and the ones delegated by the rector or president.

4 – The maximum duration of the term of office as administrator cannot exceed ten years.

SECTION 3

Specific norms regarding the management autonomy of public university education institutions

Article 124

Patrimonial autonomy

The immovable property in the private domain of the State which have been transferred to the patrimony of public university education institutions and which have stopped being necessary regarding the responsibilities and competencies of the institution shall be incorporated into the patrimony of the State, by means of a joint order issued by the Ministry of Finance and by the Minister responsible, after consultation with the institution.

Article 125

Staff and costs with staff

1 – The public university education institutions manage autonomously their human resources, taking into account their needs, the principles of good management and strictly respecting their budget, and they are not subject to the limitations established in paragraph 1, Article 121.

2 – In order to do the follow-up of the evolution of the costs with staff, the public university education institutions submit every three months to the Ministry of Finance and to the Minister responsible the following elements:

- a) Staff costs, including agreement contracts, piece-work contracts and service purchase contracts concluded with natural persons;
- b) Number of staff vacancies, at any capacity, and of retirements, rescissions and other forms of cessation of an employment relationship;
- c) The reasons behind possible increases in staff costs not resulting from salaries update, fulfilment of legal obligations or transference of competencies from the central administration.

3 – The elements listed in the previous paragraph must be submitted following the terms set up by the Ministry of Finance.

4 – In the case of unjustified non-fulfilment of the obligation to give solicited information established in this Article, as well as of the respective deadlines, for each month in arrears, up to 10% of the twelfth part of the current transferences from the State budget may be retained.

SECTION 4

Organic units

Article 126

Management autonomy of the organic units

1 – The schools and the organic research units may be provided with administrative or financial autonomy, in accordance with the statutes of the respective institution and the scope established.

2 – The financial autonomy of the organic units of public polytechnic institutes shall be acknowledged by an order of the Minister responsible and depends on the fulfilment of the criteria to be approved in an order issued by this minister, which will include, namely, their level of own revenues.

3 – Whenever it is necessary, for a better efficiency of the management of human and financial resources of the higher education institutions, the respective rectors or presidents may:

- a) Reassign teaching, research and other staff among the organic units;
- b) Redistribute the budget resources among the organic units.

4 – The decisions provided for in the previous paragraph require the previous opinion of the General Board.

Article 127

Administrator or secretary of the organic unit

1 – The schools provided with their own bodies and management autonomy may have, in accordance with the statutes, an administrator or secretary, autonomously appointed and removed from office by the director or president of the organic unit.

2 – The administrator or secretary of the organic unit possesses the responsibilities and competencies assigned to him or her by the statutes or delegated by the director or president of the organic unit.

SECTION 5

School social action services

Article 128

School social action services

1 – Each public university and polytechnic institute possesses a specific service aimed at guaranteeing the responsibilities of the school social action, without prejudice to the possible use, by several institutions, of the same service.

2 – These services:

- a) Have administrative and financial autonomy, in accordance with the conditions and scope established by law and in the statutes;
- b) Are subject to supervision by the statutory auditor and their accounts are consolidated with the accounts of the higher education institution.

3 – The manager of this service:

- a) Is appointed from amongst people with knowledge and experience in the management area;
- b) Has the responsibilities and competencies established by the statutes and the ones delegated by the rector or president.

4 – The maximum duration of the term of office as manager of this service cannot exceed ten years.

5 – The management of the students' services, such as canteens and residences, may be concessioned by a decision of the Management Board of the public higher education institution, after consultation with the respective students association.

6 – In the remaining public higher education institutions, the responsibilities of the school social action may be guaranteed by the respective service of a university or polytechnic institute, in accordance with a protocol established between the two institutions.

CHAPTER 6

Foundational public higher education institutions

Article 129

Creation of the foundation

1 – On a reasoned proposal by the rector or president, approved by the General Board, by an

absolute majority of its members, the public higher education institutions may request to the Government their transformation into public foundations of private right.

2 – The transformation of one institution into a public foundation of private law shall be based on the advantages of the adoption of this management model and legal framework for the accomplishment of its goals.

3 – The proposal shall be accompanied by a study concerning the implications of that institutional transformation on the organization, management, financing and autonomy of the institution or organic unit.

4 – In the case of a governmental approval of the institutional transformation, an agreement shall be established between the Government and the institution, comprising, namely, the project of the institution, the program of development, the statutes of the foundation, the basic organic structure and the process of transition, as well as the circumstances in which it can return to the non-foundational regime, namely through the potential definition of an initial period of functioning subject to specific assessment.

5 – One school may, exceptionally, request to the Government, in accordance with the general conditions established by this latter, its transformation into a public foundation of private law.

6 – The transformation of a school into a foundation shall take place within the framework of the creation of a wider entity, having the character of a consortium, involving the foundation and the origin institution or its schools, and it may also integrate other education, research and development institutions, independently of their legal nature.

7 – The request shall be accompanied by:

- a) A study concerning the implications of institutional transformation on organization, management, financing and autonomy;
- b) A project of consortium;
- c) An opinion of the institution.

8 – Without prejudice to the provisions of Articles 42 and 44, the consortiums mentioned in paragraph 6 may adopt, respectively, the designation of university or of polytechnic institute.

9 – The institutional change may also intend to create a new institution resulting from the rearrangement of organic units of several public higher education institutions and of private or public research and development institutions.

10 – In the situation mentioned in the previous paragraph, the creation of a new institution may result from a governmental initiative, with the

agreement of the involved institutions, or from an initiative of the institutions themselves.

11 – The creation of the foundation may also be decided by an initiative of the Government, respecting the provisions of paragraph 3, whenever the creation of a new institution does not result from the transformation of a previous institution.

12 – The creation of the foundation is established by Decree-Law, which will also approve its statutes.

Article 130

Patrimony of the foundation

1 – The patrimony of the foundation is composed of the patrimony of the higher education institution concerned, or, in the case of a organic unit, of the patrimony of the institution which was specifically assigned to its functions, in accordance with the legal diploma creating the foundation.

2 – The State may contribute to the patrimony of the foundation with supplementary resources.

3 – Other entities may also contribute to the patrimony of the foundation, in the moment of its creation or afterwards.

Article 131

Administration of the foundation

1 – The foundation shall be administrated by a Board of Trustees composed of five personalities of relevant merit and professional experience.

2 – The trustees shall be nominated by the Government on a proposal from the institution.

3 – The duties of a trustee are not compatible with a simultaneous employment relationship with the institution.

4 – The term of office of the trustees shall be five years, renewed only once, and they cannot be removed from office by the Government without a valid reason.

5 – In the first composition of the Board of Trustees, the term of office of two of them, chosen by lot, shall be three years only.

6 – The foundation has a statutory auditor subject to the provisions of Article 117.

Article 132

Autonomy

1 – The foundational public higher education institutions shall have autonomy in the same terms as the other public higher education institutions, with the necessary adjustments.

2 – The institutions shall have their own statutes, approved by the Board of Trustees of the foundation, on a proposal from an assembly with the composition provided for in Article 172.

3 – The statutes shall be subject to governmental certification, in the same terms as the other public higher education institutions.

4 – The disciplinary competence over the teaching and research staff, as well as over the students, shall be a responsibility of the bodies of the institution, in the same terms as the other public higher education institutions.

5 – The provisions of Article 116 are also applicable to the foundational public higher education institutions.

Article 133

Bodies of the institutions

1 – The bodies of higher education institutions are chosen in accordance with the other public higher education institutions and have the same composition and competencies of these ones, with the necessary adjustments and the exceptions mentioned in the following paragraphs.

2 – The Board of Trustees shall:

- a) Nominate and remove from office the Management Board on a proposal from the rector, director or president;
- b) Certify the decisions of the General Board regarding the appointment and removal from office of the rector, director or president;
- c) Exercise the competence mentioned in sub-paragraph *h*), paragraph 2 of Article 82;
- d) Certify the decisions of the General Board mentioned in sub-paragraphs *a*), *b*), *d*), *e*) and *f*), paragraph 2 of Article 82.

Article 134

Legal regime

1 – The foundations are ruled by private law, namely regarding the financial, patrimonial and staff management, with the exceptions established in the following paragraphs.

2 – The private law regime does not interfere with the implementation of the constitutional principles for the Public Administration, namely the pursuit of public interest and the principles of equality, impartiality, justice and proportionality.

3 – As for its management of human resources, the institution may create its own careers for the teaching, research and other staff, generally respecting, when appropriate, the parallelism of the

list of categories and academic qualifications, in comparison with the ones in force for the teaching and research staff of the other public higher education institutions.

4 – The provisions of the previous paragraph are understood without prejudice to the exception of the regime for the public administration in which the officials and agents of the higher education institution are integrated before its transformation into foundation.

Article 135

Access and enrolment

The foundational public higher education institutions select their students with the help of the criteria and procedures established in the law.

Article 136

Financing

1 – The State financing of the institutions provided for in this Chapter shall be established through pluriannual contracts, not inferior to three years, in accordance with performance targets.

2 – The contracts mentioned in the previous paragraph shall be signed between the institution and the State, represented by the Ministry of Finance and the Minister responsible.

3 – The rules established in the law regarding the State financing of the other public higher education institutions are applicable to the higher education institutions mentioned in this Chapter, with the necessary adjustments.

4 – The tuition fee regime for students shall be established by the law regulating this matter of the public higher education institutions.

Article 137

School social action

The students of the higher education institutions mentioned in this Chapter shall be covered by the school social action in the same terms as the students of the other public higher education institutions.

TITLE 4

Organization and management of the private higher education institutions

CHAPTER 1

Introductory provisions

Article 138

Organization principles

1 – The founding entity shall organize and manage the respective education institutions, namely in the areas of economic and financial management.

2 – The office holders of the supervision bodies of the founding entity cannot be office holders of the bodies of the education institutions.

3 – The exercise of the disciplinary power over the teachers, further staff and students shall be a responsibility of the founding entity, preceding the opinion of the education institution, although this power may also be delegated to the bodies of the institution.

Article 139

Tuition fees and further charges

The tuition fees and other charges for the attendance of the education institution shall be established by the founding entity, after consultation with the directing boards of the institution, and must be known and properly noticed before students' enrolment.

CHAPTER 2

Statutes

Article 140

Statutes and regulations

1 – The founding entity of the private higher education institution shall provide the institution with statutes, which, in respect of the law, shall define:

- a) Its objectives;
- b) The scientific, cultural and pedagogical project;
- c) The organic structure;
- d) The form of management and organization adopted;
- e) Other essential aspects for its organization and functioning.

2 – The statutes shall contemplate the participation of teachers and students in the management of the education institutions, namely the participation of teachers in the scientific and pedagogical areas and of students in the pedagogical field.

3 – In accordance with the statutes, the responsible bodies of the education institutions shall approve the respective internal regulations.

Article 141

Reservations to the Statutes

1 – Together with the provisions of the previous Article, the rules governing the relations between the founding entity and the education institution shall also be, compulsorily, included in the statutes of each education institution, as well as the other essential aspects regarding the organization and functioning of the latter, namely the appointment and duration of the term of office of the office holders of its bodies.

2 – In the domain of the education to be offered, the statutes shall also include the establishment of the system for admissions, enrolments, attendance and assessment of the students, as well as their rights and obligations.

3 – In accordance with the law, the statutes of the education institutions shall also include the regime of the teaching career adequate to each education institution, along with, namely, the establishment of the rights and obligations of the teaching staff, the definition of the careers and the guidelines regulating career assessment and progression.

Article 142

Registration and publication of the Statutes

1 – The statutes of the private higher education institutions, as well as its amendments, are subject to verification of conformity with the law or regulation, with the constitutive act of the founding entity and with the recognition of public interest of the institution, in order to be registered afterwards in accordance with the present law.

2 – The founding entity requires the registration of the statutes and its amendments, adding to the process all the further relevant documents, notwithstanding that the Minister responsible may solicit explanations or additional information.

3 – After the registration, the founding entity publishes the statutes of the education institution, as well as all the subsequent amendments, in the 2nd Series of the *Diário da República* (Portuguese Official Journal).

CHAPTER 3

Autonomy of the private higher education institutions

Article 143

Branches of Autonomy

1 – The private higher education institutions shall have cultural, scientific and pedagogical autonomy.

2 – The provisions of Articles 71 to 75 are also applicable to the private higher education institutions, subsidiary and with the proper adjustments.

3 – As for the disciplinary autonomy, the institutions shall create the necessary regulations, in accordance with the principles and procedures established in the applicable legislation.

4 – Each institution shall also establish the disciplinary procedures and sanctions in the student's regulation.

CHAPTER 4

Organization

Article 144

Organic structure

1 – The private higher education institutions shall, compulsorily, possess the following bodies:

- a) Rector, in the case of a university or university institute, or president, in the case of a polytechnic institute, appointed from amongst persons who possess the requirements established in paragraphs 3 and 4 and in sub-paragraphs b) and c) of paragraph 5, Article 86;
- b) Director, president or directing board, in the case of the other higher education institutions;
- c) Scientific Board or Technical-Scientific Board and Pedagogical Board, in accordance with Articles 102 and 104.

2 – With the exception of disciplinary reasons, the office holders of the bodies of the institution may only be removed from office at the end of the school year.

3 – Whenever the organic units exist, they shall possess a director or president of the organic unit, appointed by the founding entity on a proposal from the rector or president of the institution.

4 – Besides the bodies mentioned in the previous paragraph, the statutes may also provide for the existence of other bodies, namely advisory or technical bodies.

Article 145

Scientific, Technical-Scientific and Pedagogical Boards

The Scientific, Technical-Scientific and Pedagogical Boards of the private education institutions have to follow, with the necessary adjustments, the provisions of Articles 102 to 105, which are applicable to the corresponding bodies of the public higher education institutions.

Article 146

Participation of the teaching and student staff

1 – The participation of teachers and students in the academic management of the private education institutions shall be ensured through the representation of teachers in the Scientific, Technical-Scientific and Pedagogical Boards and the representation of students in the Pedagogical Board.

2 – The system of participation shall also ensure that representatives of the teaching staff, through the Scientific or Technical-Scientific Board, may be consulted by the founding entity and by the rector, president, director or president of the organic unit regarding the administrative management of the education institution.

TITLE 5

Assessment and accreditation, supervision, tutelage and responsibility of the higher education institutions

CHAPTER 1

Assessment and accreditation

Article 147

Assessment and accreditation of the higher education institutions

1 – The higher education institutions shall establish, in accordance with their statutes, mechanisms for a regular self-assessment of their performance.

2 – The higher education institutions and their organic units, as well as the respective pedagogical and scientific activities, are subject to the national system of accreditation and assessment, in accordance with the law, and they shall fulfil the legal obligations and collaborate with the responsible entities.

CHAPTER 2

Supervision and inspection

Article 148

Supervision

The higher education institutions shall be subject to the supervision powers of the State, and they shall collaborate with the responsible entities with loyalty and promptness.

Article 149

Inspection

1 – The higher education institutions shall be subject to the inspection of the Minister responsible.

2 – The responsible services of the Minister responsible shall conduct regular inspection visits to all functioning education institutions, and may be accompanied by specialists in the relevant areas.

3 – The reports of the inspection are notified to the education institution and, in the case of the private education institutions, to the founding entity.

CHAPTER 3

Tutelage

Article 150

Tutelage

1 – The power of tutelage over the higher education institutions is exercised by the governmental department responsible for the higher education sector, aiming, essentially, at the fulfilment of the law and at the protection of the public interest.

2 – The top-level body shall, besides the specific powers granted by the present law:

- a) Be acquainted with and decide on the resources whose interposition is provided for in an explicit legal provision;
- b) Carry out all the other procedures provided for in the law.

3 – The Minister responsible shall also summon elections for the bodies of the higher education institutions, as well as start the procedures for the election of the rector or president, if the responsible bodies do not start them in due time.

Article 151

Delegation of competencies

The Minister responsible may delegate or subdelegate competencies to the rector or president of the public higher education institutions.

Article 152

Situations of crisis

1 – In the case of situations of serious institutional crisis of public institutions, which cannot be overcome within the framework of their autonomy, the Government, by means of a reasoned order by the Minister responsible, after consultation with the Coordinating Council for Higher Education, may intervene in the institution and take the appropriate measures, including the suspension of the statutory bodies and the nomination of an independent person to manage the institution, strictly during the necessary period to restore the institutional normality and reorganize the self-government of the institution as soon as possible.

2 – The intervention cannot influence the cultural, scientific and pedagogical autonomy of the institution, or challenge the academic freedom or the freedom to teach and learn within the institution.

Article 153

Compulsory closure

1 – The following are reasons for a compulsory closure of the higher education institutions:

- a) The non-fulfilment of the necessary requirements for their functioning;
- b) In the case of the private higher education institutions, the non-observance of any of the requirements of their recognition of public interest;
- c) The extremely negative institutional assessment;
- d) The functioning in conditions of serious institutional or pedagogical degradation.

2 – The closure of the institution shall be carried out by the competent services of the Minister responsible and it is established by means of a reasoned order by the Minister responsible, published in the 2nd Series of the *Diário da República*, which sets up the conditions and deadlines for the closure.

3 – For the ministerial decision to be valid, it shall be preceded by the consultation with the responsible entities of the education institution and,

in the case of the private institutions, with the founding entity.

4 – The compulsive closure of the education institutions may be solicited to the administrative and police authorities, along with the information regarding the corresponding order.

5 – A organic unit or an authorized studies cycle may be also be forced to close if any of the situations established in paragraph 1 is registered.

Article 154

Preventive measures

1 – In case of non-fulfilment by the institutions of the provisions in the present law, or whenever the functioning of the education institutions is seriously affected, the Minister responsible may:

- a) Submit a formal notice to the institution, or to the founding entity, accompanied or not by a time-limit for the normalization of the situation;
- b) Determine the temporary suspension of the functioning of study cycles;
- c) Suspend the academic activities of the institution for no more than three months.

2 – The implementation of the measures provided for in the previous paragraph shall be preceded by a consultation with the institution or founding entity.

3 – The provisions in paragraph 1 do not interfere nor with the provisions in Articles 151 and 152 or with the sanctions provided for in the law.

Article 155

Reconversion

1 – Whenever a higher education institution has stopped fulfilling the respective requirements provided for in Articles 39 to 46, it can be reconversed, by means of an order of the Minister responsible, into a higher education institution of a different nature, if it respects the corresponding requirements, with the obligation to amend its statutes and, depending on the situation, alter its denomination.

2 – The procedure mentioned in the previous paragraph shall include the elaboration of a report by the competent service of the Minister responsible and the previous consultation with the affected entities.

Article 156

Protection of the interests of the students

In the case of a compulsory closure of the education institution, organic units or study cycles, the Minister responsible shall take the necessary measures to protect the interests of the students.

CHAPTER 4

Responsibility

Article 157

Responsibility of the higher education institutions

1 – As for their patrimony, the higher education institutions shall be liable for the damages caused to third parties by the office holders of their bodies, officials or agents, in accordance with the law, without prejudice to the academic and scientific freedom.

2 – The office holders of the bodies, the officials and the agents of public higher education institutions, shall be held civilly, financially and criminally liable for the infractions of which they are accused, in the general terms.

Article 158

Audit Court

The higher education institutions are subject to the jurisdiction of the Audit Court, in accordance with the general law.

Article 159

Annual report

The higher education institutions shall approve and publish an annual consolidated report of their activities, accompanied by the opinions and decisions of the responsible bodies, giving information relative, namely, to:

- a) The degree of fulfilment of the strategic plan and the annual plan;
- b) The accomplishment of the established goals;
- c) The effectiveness of the administrative and financial management;
- d) The evolution of the patrimonial and financial situation and of the sustainability of the institution;
- e) The movements of the teaching and non-teaching staff;
- f) The evolution of the admissions process and attendance to the offered study cycles;

- g) The conferred academic degrees and diplomas;
- h) The level of employability of their graduates;
- i) The internationalization of the institution and the number of foreign students;
- j) The rendering of external services and the established partnerships;
- k) The procedures of self-assessment and external assessment and their results.

Article 160

Accounts

1 – The public higher education institutions shall annually present a report of consolidated accounts with all their organic units.

2 – The report mentioned in the previous paragraph shall include the explanation of the structures of costs, differentiating educational and research activities for the several career types, in order to ensure the best practices of accounting and registration of the structures of costs of the education and research institutions.

Article 161

Transparency

1 – The higher education institutions make publicly available in their web pages all the relevant elements for a complete knowledge of the offered study cycles and degrees, of the conducted research and of the services rendered by the institution.

2 – Among these elements made available are, compulsorily, included the reports on self-assessment and external assessment of the institution and their organic units, as well as of its study cycles.

Article 162

Information and promotion

1 – The education institutions shall state, compulsorily, in their information documents aimed at public dissemination and in the respective publicity, the exact content of the recognition of public interest and of the authorizations granted for the functioning of study cycles and for the recognition of the degrees.

2 – Exact and sufficient information shall be provided regarding the following aspects:

- a) Mission and goals of the institution;
- b) Statutes and regulations;
- c) Organic units;

- d) Current study cycles, conferred degrees and their curricular structure;
- e) Teaching staff, their employment relationship and rendering of services;
- f) System for school assessment;
- g) Accreditation titles and results of the assessment of the institution and the study cycles;
- h) Rights and obligations of students, including all the tuition fees and charges that students are required to pay;
- i) School social action services;
- j) Index of school achievement and failure, as well as of employability of the offered study cycles;
- k) Other elements provided for in the law and in the statutes.

CHAPTER 5

Charges

Article 163

Charges

1 – The higher education institutions are required to pay charges relating to the following procedures:

- a) Recognition of public interest of private higher education institutions;
- b) Other procedures provided for in the law.

2 – The amount of charges shall be established by a regulation diploma.

CHAPTER 6

Administrative offences

Article 164

Special administrative offences

1 – The following offences shall be punishable by fines of €10 000 to €100 000, for collective being, or of €1000 to €5000, for individuals:

- a) The functioning of higher education institution or study cycles in a franchise system;
- b) The functioning of a private higher education institution without the prior recognition of public interest;
- c) The functioning of a higher education institution which superveniently stops fulfilling the necessary requirements;

- d) The functioning of organic units outside the head-office of the higher education institution without fulfilling the respective requirements;
- e) The functioning of schools in a public education institution without ministerial approval;
- f) The functioning of study cycles which aim at awarding an academic degree without previous registration;
- g) The implementation of non-certified statutes;
- h) The violation of the norms regarding the composition of the government and management bodies of the institutions, as well as of the Scientific or Technical-Scientific and Pedagogical Boards;
- i) The omission of publication of the annual report mentioned in Article 159.

2 – The following offences shall be punishable by fines from €2 000 up to €20 000, for collective being, or from €500 up to €5000, for individuals:

- a) The use of a non-registered denomination, as well as the use of a denomination which is legally aimed at another higher education institution by an institution of a different nature;
- b) The infractions to the regulations regarding the conflict of interests mentioned in Article 106 and the existence of any positions within the higher education institutions which violate the regulations regarding incompatibilities and impediments present in other laws and in the statutes;
- c) The refusal to collaborate with the responsible entities within the scope of the external assessment of higher education institutions;
- d) The refusal or obstruction of the inspection of the Minister responsible;
- e) The refusal to collaborate or the obstruction of the supervision of the State;
- f) The public unavailability of the information mentioned in Article 162;
- g) Providing the Minister responsible with false information or with incomplete information capable of leading to erroneous conclusions with an identical or equivalent effect to the one that false information would have on the same object.

3 – The attempt and negligence shall be punishable.

Article 165

Fulfilment of the omitted obligation

Whenever the infraction results from the omission of an obligation, the payment of the fine or the fulfilment of the collateral sanction does not release the offender from having to fulfil the obligation, in the case of that still being possible.

Article 166

Collateral sanctions

Together with the fines provided for in Article 164, the following collateral sanctions may also be applicable:

- a) Revocation of the recognition;
- b) Deprivation of the right to subsidies or benefits granted by public entities or services;
- c) Arrest and loss of the object of the infraction and of the economic benefit gained.

Article 167

Competence for the process

- 1 – The competence for the processes of administrative offences provided for in the present law is a responsibility of the competent services of the Minister responsible.
- 2 – The Minister responsible shall have the responsibility to decide the process.
- 3 – During the investigation or instruction, the competent service of the Minister responsible may request all the collaboration or support considered necessary to the police forces or to any other public services or entities for the accomplishment of the goals of the process.

Article 168

Product of fines

The product of fines reverts to the Higher Education Social Action Fund.

Article 169

Subsidiary right

The general regime for the administrative offences is subsidiary applicable.

TITLE 6

Coordinating Council for Higher Education

Article 170

Mission of the Coordinating Council for Higher Education

The Coordinating Council for Higher Education shall advise the member of the Government responsible for the higher education area regarding the policies for higher education.

Article 171

Composition, mode of functioning and competencies of the Coordinating Council for Higher Education

The composition, mode of functioning and competencies of the Coordinating Council for Higher Education shall be established in a specific diploma.

TITLE 7

Transitory and final provisions

CHAPTER 1

Transitory provisions

Article 172

New statutes

1 – Within eight months after the coming into force of the present law, the higher education institutions shall revise their statutes, in order to adapt them to the new legal regime.

2 – In the case of the public higher education institutions, the new statutes are approved by an assembly summoned for the purpose, with the following composition:

- a) The rector or president, who presides over the assembly;
- b) Twelve representatives of the career teachers and researchers and other teachers and researchers with a PhD degree in a full-time position;
- c) Three representatives of the students;
- d) Five external personalities of recognized merit and with knowledge and experience relevant to the institution.

3 – The election and cooptation of the members are carried out in accordance with paragraphs 3 to 6 from Article 81 and with a regulation approved by

the Academic Senate or General Board, according to the legal regime at the time of the coming into force of the present law.

4 – The assembly may nominate a commission responsible for the elaboration of a new project of statutes, to be submitted to discussion and approval by the assembly.

5 – During the process of elaboration of the statutes, the assembly consults with the current bodies of the institution and its organic units.

6 – The norms of the statutes shall be approved by an absolute majority of the members of the assembly and the same shall happen in relation to its final approval.

7 – In the case of the private higher education institutions, the new statutes shall be approved by the responsible body of the founding entity, after consultation with the bodies of the education institution.

8 – The new statutes shall be certified and published in accordance with the present law.

9 – The rector or president shall have the responsibility to promote the implementation of the new organization and management model resulting from the present law.

10 – In the case of unjustified disapproval of the statutes during the establish time-limit, the institution is considered to be, for all legal purposes, in a situation of institutional degradation, in accordance with Article 153.

Article 173

Organic units

1 – In the process of elaboration and approval of the statutes, the public higher education institutions shall rationalize their organic units, namely carrying out the appropriate mergers and suppressions.

2 – During the process of rationalization mentioned in this Article, the institutions shall respect the general guidelines for the rationalization of the network approved by the Government.

Article 174

Renewal of terms of office

1 – The members of the new bodies of the institutions shall be elected or appointed, depending on the case, within the four months following the publication of the new statutes, ending, then, the term of office of the current bodies.

2 – The mandate-holders, who end their functions after the publication of the new statutes, will continue their functions until the new bodies take office in accordance with the previous paragraph,

and this mandate will be extended for as long as it is necessary.

3 – The rectors or presidents of the institutions, as well as the directors or presidents of the organic units, may complete their mandates if these have not ended with the publication of the new statutes, and their status and competencies change to the ones provided for in the law.

4 – The mandate-holders who could not apply for a consecutive mandate under the laws or statutes in force until now continue incapable of doing that since they exceed the maximum possible number of consecutive mandates.

5 – The mandate-holders who are performing duties which, according to the present law, are now incompatible with other duties may complete the incompatible mandate, within the limit of four years from the coming into force of the present law.

Article 175

Patrimony of the public higher education institutions

Within 18 months following the publication of the present law, the public higher education institutions shall carry out the update of the inventory of all their immovable property and of the patrimony of the State which is assigned to them at the moment, as well as justify the need of this latter for the accomplishment of the goals of the institution.

Article 176

Current procedures for the recognition of public interest

With the publication of the present law, all the procedures of public recognition of private higher education institutions become invalid and, therefore, they shall be renewed in accordance with the requirements established in the present law.

Article 177

Entrance into the foundational regime

1 – Within three months after the coming into force of the present law, the assembly mentioned in paragraph 2 of Article 172 may, through a decision taken by the majority of its members, request the entrance of the university into the foundational regime, in accordance with the provisions of Article 129.

2 – The request mentioned in the previous paragraph shall suspend the time-limit mentioned in paragraph 1 of Article 172.

3 – The directors or presidents of the organic units may promote the organization of an assembly *ad hoc*, with the composition established in paragraph 2 of Article 172, in order to decide, by an absolute majority, within three months after the coming into force of the present law, the presentation of a proposal on the transformation of the organic unit in accordance with the provisions of Article 129.

Article 178

Accumulations

1 – Until the amendment of the statutes for the teaching careers, the limit mentioned in paragraph 1 of Article 51 is of six weekly teaching hours.

2 – Until the implementation of the provisions from the present law is evaluated, and exclusively for the provisions of Article 49, the assistant-teachers and the coordinator-teachers of polytechnic higher education career recruited through open competitions in accordance with the Career Statute of the Academic Staff of Higher Polytechnic Education are considered holders of the degree of specialist.

3 – The provisions of paragraph 3 of Article 1 do not interfere with the implementation of the present law on the higher education institutions where the artistic and distance educations are offered in everything which is not compatible with their specificity.

CHAPTER 2

Final provisions

Article 179

Special public higher education

In the case of public higher education institutions, the present law does not interfere with the special regime of the military and police higher education institutions, as well as with the *Universidade Aberta* (Open University), without prejudice to its subsidiary application.

Article 180

***Universidade Católica* (Portuguese Catholic University) and other canonical institutions**

The present law is applied to the *Universidade Católica Portuguesa* (Portuguese Catholic University) and to the further higher education institutions founded by canonical entities, without prejudice to the specificities resulting from the Agreement “*Concordata*” between Portugal and the Holy See.

Article 181

Access to higher education

The criteria for the establishment of the subjects to be assessed in the capacity tests for attendance of the study cycles of a graduate course or of the integrated study cycles of the master’s degree in a specific area are approved by an order of the Minister responsible, after consultation with the National Commission on Access to Higher Education, whenever required by the goals of the national politics for the training of human resources and the global coherence.

Article 182

Repeal

The following diplomas are hereby repealed:

- a) Law No. 108/88, 24th of September (covers the scheme for university autonomy);
- b) Law No. 54/90, 5th of September, (defines the Statutes and autonomy of the polytechnic higher education institutions), amended by Laws No. 20/92, 14th of August, and No. 71/93, 26th of November;
- c) Law No. 1/2003, 6th of January (approves the Legal Regime for the Development and Quality of Higher Education), amended by Decree-Law No. 74/2006, 24th of March;
- d) Law No. 37/2003, Article 17, 22nd of August (establishes the funding basis for of higher education), later amended by Law No. 49/2005, 30th of August;
- e) Decree-Law No. 293/90, 21st of September (possibility to nominate the vice-rectors of the universities);
- f) Decree-Law No. 129/93, Articles 12 to 17, 22nd of April (establishes the principles for the social action policies of higher education);
- g) Decree-Law No. 16/94, 22nd of January, (approves the Statutes of private and co-operative higher education), amended, through ratification, by Law No. 37/94, 11th of November, by Decree-Law No. 94/99,

23rd of March, and Decree-Law No. 74/2006, 24th of March;

- h) Decree No. 21 160, of May 11th 1932 (standardizes and compiles in a single diploma all the legal provisions regarding the academic discipline), together with the Decree-Law No. 44 357, of May 21st 1962, and with the Decree-Law No. 27/71, 5th of February;
- i) Decree-Law No. 24/94, 27th of January (regulates the process of installation of the polytechnic higher education institutions), amended by the Declaration of Rectification No. 38/94, 31st of March;
- j) Decree-Law No. 252/97, 26th of September (adopts measures for the development and deepening of the autonomy law for the universities in the areas of staff, budget and patrimonial management).

2 – The other norms which contradict the provisions of the present law shall be annulled.

3 – The revocation mentioned in sub-paragraph *j*) of paragraph 1 shall be understood without prejudice to the implementation of the provisions of paragraphs 2 and 3 of Article 3 of Decree-Law No. 252/97, 26th of September, when it has not yet occurred.

4 – As long as the regulation diploma for the procedures of recognition of public interest of the private higher education institutions is not published, the provisions of the Statute of the Private and Cooperative Higher Education shall remain in force in what this matter is concerned, and in everything which does not contradict the present law.

Article 183

Adequacy

1 – The adequacy to the requirements mentioned in Articles 47 and 49 shall be carried out by the public or private higher education institutions, until the beginning of the school year following the time-limit of 18 months after the coming into force of the present law; otherwise the authorization for the functioning of the respective study cycles shall be revoked.

2 – In the case of the polytechnic education institutions, the time-limit of 18 months mentioned in the previous paragraph begins with the coming into force of the Decree-Law which shall regulate the awarding of the specialist degree.

3 – The private higher education institutions, as well as the respective founding entities, shall begin their adequacy to the provisions of the present law concerning the respective requirements within 18

months following its coming into force; otherwise the recognition of public interest and the authorization for the functioning of the respective study cycles shall be revoked.

Article 184

Entry into force

1 – The present law shall come into force thirty days after its publication, with the exception of what requires the approval of the new statutes for the higher education institutions and the taking office of the bodies.

2 – The new system of government bodies starts functioning:

- a) With the taking office of the new rector or president or;
- b) Within five working days after the conclusion of the process of constitution and taking office of the General Board, in the absence of a declaration of renouncement by the rector or president in the case of being included in the provisions of paragraph 3 of Article 174.

Article 185

Assessment of the implementation

The implementation of the present law shall be evaluated five years after its coming into force.

Approved on July 19th, 2007.

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

Promulgated on August 23rd, 2007.

Hereby published.

The President of the Republic, **ANÍBAL CAVACO SILVA.**

Authenticated on August 23rd, 2007.

The Prime-Minister, *José Sócrates Carvalho Pinto de Sousa.*