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# Portugal



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## I. INTRODUCTION

As stated in the 2020 report<sup>1</sup>, the Constitution of the Portuguese Republic (hereinafter ‘Constitution’ or ‘Portuguese Constitution’) was passed on 2 April 1976 and empowers the Parliament (‘Assembly of the Republic’) to revise the Constitution, subject to specific limits. The applicable provisions are laid down in Articles 284-289, included in Title II (‘Revision of the Constitution’) of Part IV of the Constitution (‘Guaranteeing and revision of the Constitution’)<sup>2</sup>.

In 45 years, this prerogative was used seven times<sup>3</sup>. In this respect, it is important to bear in mind that, while Article 284(1) of the Constitution (on competence and time for revisions) enables the Assembly of the Republic to revise the Constitution *five years after the date of publication of the last ordinary revision law*, Article 284(2) allows the Assembly to take *extraordinary revision powers at any time, by a four-fifths majority of all the Members in full exercise of their office*.

Title II of Part IV of the Constitution provides for the rules applicable to Constitutional Reforms, in the following terms:

### Article 284 (Competence and time for revisions)

1. *The Assembly of the Republic may revise the Constitution five years after the date of publication of the last ordinary revision law.*
2. *However, by a four-fifths majority of all the Members in full exercise of their office, the Assembly of the Republic may take extraordinary revision powers at any time.*

### Article 285 (Power to initiate revisions)

1. *The competence to initiate revisions pertains to Members of the Assembly of the Republic.*

<sup>1</sup> See the Parliament website here: <https://www.parlamento.pt/sites/EN/Parliament/Paginas/Constitutional-revisions.aspx>, [last accessed: 09.06.2022], in order to collect more information on the different revisions of the Portuguese Constitution.

<sup>2</sup> Title I relates to the ‘Review of constitutionality’.

<sup>3</sup> Further reading may be found in ALEXANDRINO, José de Melo – ‘Reforma Constitucional - Lições do Constitucionalismo Português’, in *Estudos em homenagem ao Prof. Doutor Martin de Albuquerque* (Faculdade de Direito da Universidade de Lisboa 2010) 9-36; PÉREZ AYALA, Andoni – ‘Tres Décadas de Evolución Constitucional en Portugal’ (1976-2006) (Revista de Derecho Político, 70, UNED 2007), 65-134, and GONÇALVES, Fernando Paulo – ‘Las Revisiones de la Constitución de 1976’, in AA.VV. (J. Tajadura, coord), *La Constitución Portuguesa de 1976: un estudio académico 30 años después* (Madrid, Centro de Estudios Políticos y Constitucionales 2006) 291-308.

2. *Once a draft revision of the Constitution has been submitted, any others shall be submitted within thirty days.*

### Article 286 (Passage and enactment)

1. *Amendments to the Constitution shall require passage by a two-thirds majority of all the Members of the Assembly of the Republic in full exercise of their office.*
2. *Such amendments to the Constitution as are passed shall be collected together in a single revision law.*
3. *The President of the Republic shall not refuse to enact the revision law.*

### Article 287 (New text of the Constitution)

1. *Amendments to the Constitution shall be inserted in the proper place by means of such replacements, eliminations and additions as may be necessary.*
2. *The new text of the Constitution shall be published along with the revision law.*

### Article 288 (Material limits on revision)

*Constitutional revision laws shall respect:*

- a) *National independence and the unity of the state;*
- b) *The republican form of government;*
- c) *The separation between church and state;*
- d) *Citizens’ rights, freedoms and guarantees;*
- e) *The rights of workers, workers’ committees and trade unions;*
- f) *The coexistence of the public, private and cooperative and social sectors in relation to the ownership of the means of production;*
- g) *The requirement for economic plans, within the framework of a mixed economy;*
- h) *The elected appointment of the officeholders of the bodies that exercise sovereign power, of the bodies of the autonomous regions and of local government bodies by universal, direct, secret and periodic suffrage, and the proportional representation system;*
- i) *Plural expression and political organisation, including political parties, and the right to democratic opposition;*
- j) *The separation and interdependence of the bodies that exercise sovereign power;*
- l) *The subjection of legal rules to a review of their positive constitutionality and of their unconstitutionality by omission;*