

## Decree-Law No. 369/2007, of 5 November

The Programme of the XVII Constitutional Government identified the aims of the higher education policy to include guaranteeing the qualifications of Portuguese people in the European area, improving the quality and relevance of the courses offered, encouraging mobility and internationalization, increasing the autonomy of institutions, developing a culture of accountability, enhancing partnerships between national and foreign institutions, and structuring an internationally recognized system of quality assurance.

The goal of creating a system of quality assurance capable of international recognition was organized, within the same programme, in four areas identified as:

- (i) Expanding the performance assessment of institutions;
- (ii) Objectifying the evaluation criteria, transferring results into qualitative grades, level by level, making them comparable to each other, and clarifying the consequences of the assessment, both in terms of how the courses are run and financed by the higher education institutions.
- (iii) Internationalizing the assessment procedure, namely at the level of institutional assessment;
- (iv) Requiring that higher education institutions conduct their own systems of quality assurance, subject to certification.

Creating an internationally recognized system of quality assurance in higher education suggests adhering to internationally accepted principles in the field.

With regard to this, the following merit special attention:

- (i) The report on the assessment of the Portuguese system of higher education, prepared in December 2006 by the OECD at the Government's request;
- (ii) The Standards and Guidelines for Quality Assurance in the European Higher Education Area, included in the February 2005 report prepared by the European Association for Quality Assurance in Higher Education (ENQA) at the request of the ministers who are signatories to the Declaration of Bologna;

(iii) The report, prepared by the ENQA, at the request of the Portuguese Government, on quality assurance in higher education in Portugal, in November 2006, which assessed the practices in this field carried out within the scope of the National Higher Education Evaluation Council and formulated recommendations to the Government concerning the organization, method and procedures of a new system of accreditation, in accordance with Standards and Guidelines.

This assessment underlines the need to design a system in which, based on the results of the higher education institutions' self-assessment, in which its importance must be recognized, and where external assessment becomes the responsibility of entities which are themselves in effect external and not the responsibility of entities which are representative of them in whose activity external evaluators are confused with those being evaluated. Thus the creation of an agency for quality assurance in higher education which is independent of the institutions to be evaluated is favoured, as opposed to the practice which had been followed until then.

This agency should be responsible for the assessment and accreditation of the institutions and their study cycles, with accreditation being fully dependent upon the results of the assessment procedure.

Within this context, the Government presented a bill before Parliament for the legal regulations for the assessing higher education, which formed the basis of Law No. 38/2007, dated 16 August, 2007, and of the system of quality assessment adopted in it, characterized by its universal, compulsory and periodic characteristics, by the need for adopting quality policies within higher education institutions themselves, by the multi-faceted nature of that corresponding bill, by its criteria being subject to the standards set during the development of the Bologna process. It is furthermore characterised by the additional importance of assessing scientific research and development, by the contradictory nature of the assessment procedures and by the right to appeal against decisions taken within them, by the involvement of foreign experts in the assessment procedures, by various forms of student intervention at their core, by publication and by it being geared towards positioning higher education institutions within an international perspective, within the life of the community and within the labour market.

The creation of the agency has now been established, via creating a private law foundation, this follows the organization model already successfully adopted in a number of countries.

The Higher Education Assessment and Accreditation Agency will assume responsibility for quality assurance procedures at this level of education, namely those of assessment and accreditation, and also for Portugal joining the European system of quality assurance in higher education.

The essential quality of this body is its independence, both in relation to the political powers and the entities being assessed. This independence is clearly visible within the actual institutional framework that has been selected.

The independence of the Agency is also clearly reflected in the rules regarding the appointment, composition and running of its Management Board, which is being the respective principal body.

The maximum number of Board members who are appointed by the Board of Trustees is seven which include individuals whose recognized scientific and professional merits are relevant to the powers of the Agency, and are also independent practitioners in their fields of activity. The executive members exercise their duty within a system of exclusivity, and the post of non-executive member is considered incompatible while holding a management position in higher education institutions.

The interests pertaining to quality assurance in higher education are represented by a Consultant Board, of broader composition.

The organic structure of the Agency also includes a Revisions Board, with jurisdiction to assess appeals against the merit of decisions taken by the Management Board regarding assessment and accreditation. This board is equally made up of members who are strictly independent, as a result of its appointment methods and statute, as well as a Fiscal Board, to be appointed by the member of Government responsible for Finance.

Finally, this legal diploma includes procedural rules regarding assessment and accreditation, with particular emphasis placed upon:

- (i) The compulsory inclusion of contributions from external bodies relevant to the assessment procedures, namely from Orders and other public professional associations;
- (ii) The possibility of incorporating the results of assessments from educational establishments or study cycles conducted by national, foreign or international institutions which carry out assessments in line with the principles adopted by the European system of quality assurance in higher education.

The services provided by the Agency are paid for by the respective recipients, although the amount referred to is limited, both in terms of the amount of the actual cost of the service and in terms of practices in this field registered at the level of the European system of quality assurance in higher education.

Until the Agency effectively comes into operation, the transitory rules for the creation of new study cycles fixed by Title V of Decree Law No. 74/2006, dated 24 March, 2006, will continue to be applied.

The legislative process regarding quality assurance in higher education is thus concluded, and includes:

- (i) Decree Law No. 74/2006, dated 24 March, 2006, which approved the legal regulations for degrees and diplomas, and which established the general principles of accreditation for higher education institutions and their study cycles;
- (ii) Law No. 38/2007, dated 16 August, 2007, which approved the legal regulations for the assessment of higher education;
- (iii) This Decree Law, which establishes the “Higher Education Assessment and Accreditation Agency”.

The legal regulations for quality assurance in higher education, which is completed with the creation of the Agency:

- (i) introduces a true system of external assessment, independent from the educational institutions, and where no confusion is drawn between the assessors and assessed;

- (ii) makes accreditation of the institutions and their study cycles dependent on a prior favourable assessment;
- (iii) recognizes the fundamental role of Orders and other public professional associations, which will now participate in the accreditation process, which will result in the end of their anachronistic a “posteriori” involvement in the professional recognition procedures of higher education courses, which had been necessary, in certain cases, before the present system was established.

This Decree Law has been the object of public consultation, namely by the National Council for Education, the Council of Portuguese University Rectors, the Coordinating Council of Higher Polytechnic Institutes, the Portuguese Association of Private Higher Education, Orders and public professional associations and student union associations having been heard.

Thus:

Pursuant to Article 52 of the Framework Law on the Education System and under the terms of Article 198 (1) a) and c) of the Constitution, the Government decrees the following:

#### Article 1

##### **Establishment**

The Portuguese State establishes the “Higher Education Evaluation and Accreditation Agency”, hereafter referred to as the Agency, as an evaluation and accreditation agency for quality assurance in higher education, and approves the respective Statutes, published in the appendix to this Decree Law, of which they are an integral part.

#### Article 2

##### **Character and Regulations**

1 — The Agency is a private law foundation, of a legal nature, recognized as a public utility, established for an indeterminate time period.

2 — The Agency shall be governed by the provisions of this Decree Law, by the Statutes published in the appendix and, additionally by any other legislation which can be applied to it.

### Article 3

#### **Aims**

1 — The Agency is charged, under the terms set down by law, with the assessment and accreditation of higher education institutions and their study cycles, and also with carrying out the functions inherent in Portugal joining the European system of quality assurance in higher education.

2 — All higher education institutions shall be subject to the assessment and accreditation procedures which are the responsibility of the Agency.

3 — The Agency may also participate in conducting other assessments of a scientific nature, namely of institutions which are part of the national scientific system.

4 — Considering the nature of its aims, any evaluations conducted by the Agency shall not be subject to the procedures provided for under the legal regulations for public procurement, and may be the object of direct agreement with the interested parties.

### Article 4

#### **Equity and Financial Contribution**

1 — The Equity of the Agency shall consist of the goods indicated in Article 5 of its Statutes.

2 — In the event of the Agency being terminated, its entire equity shall revert to the State, except when it merges with or is incorporated within another entity, in which case the legacy may revert, either totally or partially, to the latter.

3 — The Ministry of Science, Technology and Higher Education shall transfer to the Agency:

- a) As initial funding, the sum of one million euros;
- b) As a set-up subsidy, a financial contribution of three million euros by the end of 2009.

4 — The State shall not be responsible for providing any other regular funds to the Agency, except for the payment any rendered services which the State has requested from it.

#### Article 5

### **Independence and General Operating Principles**

1 — The Agency shall be independent in carrying out its functions, within the framework of the law and its Statutes, notwithstanding the guiding principles set by the State through its own bodies.

2 — The general operating principles to be adopted in the quality assurance procedures in higher education are set down in the legal regulations for the assessment of higher education, approved by Law No. 38/2007, dated 16 August, 2007.

#### Article 6

### **Assessment**

The rules to be applied by the Agency to the procedures for the assessment of higher education institutions and their study cycles are set down under the legal regulations for the assessment of higher education, approved by Law No. 38/2007, dated 16 August, 2007.

#### Article 7

### **Accreditation**

1 — The accreditation of higher education institutions and their study cycles is compulsory, under the terms of Decree Law No. 74/2006, dated 24 March, 2006, and may be:

- a) At the initiative of the Agency;
- b) At the initiative of the interested higher education institutions.

2 — The Agency's Management Board is responsible, pursuant to assessment results and compliance from the higher education institutions interested in it with Article 57 of Decree Law No. 74/2006, dated 24 March, 2006, for accreditation decisions, which may be:

- a) Favourable, a consequence being the authorisation of the coming into operation of a study cycle, within a higher education institution, leading to a particular academic degree and the recognition of that same degree, under the terms of Decree Law No. 74/2006, dated 24 March, 2006;
- b) Favourable, but conditioned by the requirement of the higher education institution interested in the procedure to either take measures under the auspices of the quality assurance system deemed necessary by the Agency within a period set by it and subject to the respective confirmation, or otherwise revert to an unfavourable decision;
- c) Unfavourable, the consequence of which shall be that the effects set out in subparagraph a) shall not be implemented.

3 — A favourable decision under the auspices of the accreditation procedure is valid for an initial period, to be fixed by regulations of the Agency. It will be valid for a maximum of eight years, at the end of which subsequent revalidations will be required, within a time period to be fixed under those regulations. Accreditation may be withdrawn before the end of the time periods in the event of a supervening extraordinary assessment, determined by specific circumstances which necessitate it.

4 — The amount due to the Agency for each accreditation shall be fixed by regulations that govern it and must:

- a) Reflect the average cost of the services provided;
- b) Be restricted to amounts which are determined according to the criteria of economy, efficiency and effectiveness, in addition to the best international practices in the field.

5 — The rules concerning accreditation procedure and its relationship to the assessment procedure shall be approved by the Agency's Management Board.

6 — The accreditation procedures:

- a) Necessarily include the contribution of external entities relevant to the procedure, namely Orders and other public professional associations, as well as other scientific, cultural and economic bodies;
- b) May incorporate the assessment results of educational establishments or study cycles conducted by national, foreign or international institutions

which carry out assessment practice in line with the principles adopted by the European system of quality assurance in higher education.

7 — During the accreditation procedure, a right of audience shall be compulsorily given to the entities that most represent the professions which the study cycles in question seek to prepare for, including to Orders or professional associations, to trade union and employers' associations, and also to the interested ministries.

8 — Notwithstanding the provisions of paragraphs 6 and 7, it is forbidden for any entity other than the Agency to grant accreditation, for professional purposes, to any higher education institution or study cycle.

9 — The coercive collecting of debts resulting from a failure to pay amounts due for accreditation shall be executed by means of a tax in lieu procedure, through a certificate issued to that effect by the Agency which will serve as an enforcement order.

#### Article 8

##### **Duty to Cooperate**

The Directorate-General of Higher Education and the Office for Planning, Strategy, Assessment and International Relations at the Ministry of Science, Technology and Higher Education, the other Public Administration services and bodies as well as the higher education institutions have a duty to work and cooperate with the Agency, in addition to the duty of communicating any information which is requested of them, within the framework of the system of quality assurance in higher education.

#### Article 9

##### **Applying the Code of Administrative Procedure**

The provisions of the Code of Administrative Procedure also apply to the activities of the Agency.

## Article 10

### **Staff**

The Management Board may request from public institutions through powers under the auspices of higher education, science and technology, the requisition or relocation of staff to carry out duties in the Agency, under the terms of the applicable legislation.

## Article 11

### **Exemptions, Benefits and Fiscal Regulations**

1 — The Agency shall enjoy all the exemptions and fiscal benefits applicable to public utility legal persons, under the terms of the legislation in force.

2 — Any donations made to the Agency automatically benefit from the regulations established in the Statute governing Scientific Patronage approved by Decree Law N° 26/2004, dated July 8, 2004.

## Article 12

### **Registration**

This Decree Law constitutes sufficient proof of title for all legal purposes, including those of registration, which shall be made without payment of any charges or fees.

## Article 13

### **Transitory Regulations**

Within a maximum period of six months counting from the date that the members of the Agency's Management Board take up office, the rules set down in Title V of Decree Law No. 74/2006, dated 24 March, 2006, shall apply to the accreditation of higher education institutions and study cycles.

## Article 14

### **Amendment of the Statutes**

The Agency's Statutes may be amended, by Decree Law, following a proposal from the Board of Trustees.

Article 15

**Expiry**

The Agency shall expire by Decree Law, under the terms and conditions provided for under the law.

Article 16

**Revocation of Laws**

Decree-Laws No. 205/98, dated 11 July, 1998, and 88/2001, of 23 March, 2001, are revoked.

Article 17

**Coming into Force**

This Decree Law shall come into force on the day following its publication.

## APPENDIX

### Statutes of the Higher Education Assessment and Accreditation Agency

#### CHAPTER I

#### General provisions

##### Article 1

##### **Name**

This private law foundation shall assume the name of the “Higher Education Assessment and Accreditation Agency”, hereafter known as the Agency, and shall be governed by the applicable legislation and by the provisions of these Statutes.

##### Article 2

##### **Duration**

The Agency is established for an indeterminate period.

##### Article 3

##### **Headquarters**

1 — The Agency’s headquarters shall be in Lisbon, although they may be transferred from there to another location within national territory without the need for amendment of these Statutes, following a decision from the Board of Trustees.

2 — The Agency may create offices or any other forms of representation in a place deemed opportune or necessary that comply with its aims.

##### Article 4

##### **Aims**

1 — The aim of the Agency is to assure quality in higher education in Portugal, by means of the assessment and accreditation of the higher education institutions and their study cycles.

2 — Notwithstanding the provisions of the previous paragraph, the Agency may also participate in conducting other assessments of a scientific nature, namely of institutions which are part of the national scientific system.

3 — In order to achieve its aims, the Agency may issue rules to its recipients that are compulsory and binding in nature, namely regarding procedures, technical criteria, and others.

4 — The Agency may also:

- a) Collaborate, within its powers, with its foreign counterparts in the areas of assessment and accreditation;
- b) Conduct evaluation of foreign higher education institutions who so request it.

## Article 5

### **Equity**

1 — The initial equity of the Agency consists of the initial provision granted to it by the State, in the sum of one million euros, via the Ministry of Science, Technology and Higher Education.

2 — The Agency's equity also includes its own revenue, and any other assets, rights and obligations or economic content which it comes to own.

3 — The Agency shall draw up an inventory of its equity which it shall keep updated.

## Article 6

### **Activities**

In order to achieve its aims, the Agency may practice any activities considered necessary or opportune by its bodies, namely:

- a) Assessing and accrediting higher education institutions and their study cycles;
- b) Conducting assessments of a scientific nature;
- c) Advising the State on matters related to quality assurance in higher education in Portugal;

- d) Carrying out any studies and providing any official opinions that the State requests of it;
- e) Performing the functions inherent to Portugal joining the European system of quality assurance in higher education;
- f) Coordinating the activities of assessment and accreditation in Portugal with international assessment institutions and mechanisms.

## CHAPTER II

### **Composition, Jurisdiction and Management of the Bodies and Services**

#### Section I

#### **Organization**

#### Article 7

#### **Bodies**

The following are bodies of the Agency:

- a) Board of Trustees;
- b) Management Board;
- c) Fiscal Board;
- d) Revisions Board;
- e) Advisory Board.

#### Section II

#### **Board of Trustees**

#### Article 8

#### **Composition and Operation**

1 — The Board of Trustees consists of five members, appointed by a resolution from the Council of Ministers, following a proposal from the minister responsible for higher education, from among renowned and experienced individuals.

2 — Two members of the Board of Trustees are selected from among five individuals included on a list presented jointly by the Council of Portuguese University Rectors, the Coordinating Council of Higher Polytechnic Institutes and the Portuguese Association of Private Higher Education to the minister responsible for higher education.

3 — Through a resolution of the Council of Ministers referred to in paragraph 1 and following a proposal from the minister responsible for higher education, the President of the Board of Trustees is appointed from among the members excluding those referred to in the previous paragraph.

4 — The members of the Board of Trustees have a mandate of five years which is not renewable and may be exceptionally extended for an additional period of one year.

5 — The Board of Trustees shall be called to meet by its President, at least 15 days notice, and shall ordinarily meet four times a year.

6 — Notification of Board of Trustees meetings may be sent by registered or electronic mail to addresses supplied by its members and shall include the place, date and time of the meeting, as well as the agenda and any documents which are necessary for the full clarification of the issues set out in the agenda.

7 — The Board of Trustees may meet extraordinarily whenever this is requested by the Management Board, the Fiscal Board or by any of its members, following a written request addressed to the President, which includes the issues to be included in the agenda and the grounds for requiring a meeting of the Board.

8 — The Board of Trustees shall meet with a quorum of members and decisions will be made by absolute majority, with each member being entitled to one vote.

9 — The regulations for the remuneration of Board of Trustee members shall be set by a resolution from the Council of Ministers referred to in paragraph 1.

## Article 9

### **Powers**

The Board of Trustees shall be responsible for:

- a) Appointing the members of the Management Board and the Revision Board;
- b) Generally assessing the activities of the Management Board, with the possibility of providing official opinions or recommendations on the general lines of activity;
- c) Providing an official opinion, by 15 December of each year, on the Agency's budget and activity plan for the following year;
- d) Providing an official opinion on the management report and accounts for the previous year;
- e) Approving the acceptance of inheritances, gifts, bequests or any other donations;
- f) Setting the remuneration or the provision of attendance fees to the members of the Agency's other bodies;
- g) Providing an official opinion on any matter which the Management Board or the Fiscal Board submits for its consideration;
- h) Deciding on the location of the headquarters, when and if these are to be changed;
- i) Ensuring containment, economy, efficiency, effectiveness and observance of the best international practices in relation to establishing the costs of assessment and accreditation.

## Section III

### **Management Board**

## Article 10

### **Composition of the Management Board**

1 — The Management Board, as the body responsible for defining the Agency's activities and for the carrying out of acts ordered to achieve the respective aims, consists

of a maximum of four executive members and three non-executive members, making a maximum total of seven members, appointed by the Board of Trustees, with a mandate of four years, which is renewable, from among individuals whose scientific and professional recognition are relevant to the powers of the Agency.

2 — One executive member shall be appointed by the Board of Trustees as President of the Management Board.

3 — The remuneration of the President and the executive members shall be index linked to the remuneration established, respectively, for rectors and vice-rectors of the public universities.

4 — Notwithstanding the provisions in these Statutes regarding the jurisdiction of the Board of Trustees, the members of the Management Board shall be independent in the performing their duties.

5 — Appointment as an executive member of the Management Board shall imply exclusivity in carrying out duties.

6 — Carrying out duties as a non-executive member of the Management Board shall be deemed incompatible with holding a management position in higher education institutions, in the year prior to the appointment or during the term of the mandate.

7 — The members of the Management Board are subject to the general regulations of impediments provided for Public Administration under Article 44 of the Code of Administrative Procedure. In the event of a situation where a decision is under consideration which relates to an institution with which a member has a long-standing relationship, regardless of the nature of that relationship, such a situation will be considered as an impediment.

8 — Cessation of the mandate of the members of the Management Board may only occur following a decision by a majority of four fifths of the total number of members of the Board of Trustees based on:

- a) Permanent disability;
- b) Supervening incompatibility;
- c) Serious violation of the duties entrusted to them;
- d) Obvious incapacity regarding the normal performance of the respective duties.

9 — The mandate of the members of the Management Board shall also cease, following confirmation from the Board of Trustees, in cases of:

- a) Death;
- b) Resignation;
- c) Conviction for a crime of intent or one which carries a prison sentence.

10 — Except in the case of complete impossibility or a unanimous decision of the Board of Trustees to the contrary, the member of the Management Board whose mandate ends shall continue to exercise his duties up until the date on which he is effectively replaced.

## Article 11

### **Powers of the Management Board**

1 — The Management Board will be responsible for carrying out all duties necessary for achieving the Agency's aims which are not, under the terms of these Statutes, assigned to other bodies, and the board shall have access to extensive powers of representation and management.

2 — The Management Board will be responsible for quality assurance in higher education, for:

- a) Instigating any assessment or accreditation procedures;
- b) Reaching a final decision on the procedures referred to in the previous subparagraph, whether as a result of its own initiative or whether at the request of the interested higher education institutions;
- c) Approving the reports resulting from the assessment or accreditation procedures;
- d) Potentially accepting, within the framework of the national system of assessment and accreditation, the results of assessment or accreditation procedures requested by the higher education institutions from other national or foreign quality assurance bodies, and which they will be subject to for that purpose;

- e) Approving rules, within the scope of the system of quality assurance in higher education, in line with the terms of reference set out in the legal regulations governing assessment.

3 — It will be the responsibility of the Management Board, under the auspices of the leadership and management of the Agency, to:

- a) Represent it, define and manage respective activities and internal organization;
- b) Draw up an annual and multi-annual activity plans and ensure their execution;
- c) Draw up an activity report;
- d) Administer and organize its equity;
- e) Draw up a social report, under the terms of applicable law;
- f) Recruit and manage its staff;
- g) Carry out any other management duties and those which are necessary for the proper running of its services;
- h) Appoint representatives of the Agency to external bodies;
- i) Provide official opinions, studies and information that the State requests of it;
- j) Open or close offices or any forms of representation;
- l) Practice all activities inherent in complying with duties resulting from the statute on public utilities;
- m) Request that meetings of the general council be called;
- n) Decide on any other matters relating to the Agency.

4 — It shall be the responsibility of the Management Board, within the area of the management of finances and equity, to:

- a) Produce an annual budget and ensure its respective execution;
- b) Collect and manage revenue and authorize expenses;
- c) Prepare and approve an annual report, a balance sheet and accounts for each year;
- d) Establish, maintain and preserve internal systems of accounting control, so as to accurately reflect the financial situation and equity of the Agency at any given time;

- e) Exercise any other powers provided for in these statutes which are not the responsibility of another body.

5 — The President of the Management Board shall be especially responsible for:

- a) Representing the Agency in and out of court;
- b) Representing the Agency in its relations with the State, with the higher education institutions and with other entities, whether public or private;
- c) Requesting opinions from the Advisory Board;
- d) Exercising any other powers that are delegated to him by the Management Board.

## Article 12

### **Running of the Management Board**

1 — The Management Board shall ordinarily meet twice a month and extraordinarily whenever the President calls it, through his own initiative or at the request of its members.

2 — The members of the Management Board shall be notified of meetings by letter or electronic mail and with sufficient notice.

3 — The decisions of the Management Board shall be made by majority, without the possibility of abstention and with open voting including an explanation for the grounds of the decisions.

4 — The Agency shall be bound, to any acts or contracts, by the signature of the President, of two members of the Management Board who have been given that authority, or also by the signature of one or more mandate holders, under the terms of the respective mandates.

Section IV  
**Fiscal Board**

Article 13

**Appointment and Statute of the Fiscal Board**

1 — The Fiscal Board, as the body responsible for checking the legality, regularity and proper management of the Agency's finances and equity, consists of three members, with a three year mandate, renewable once and for a further three year period, who are appointed by order of the member of the Government responsible for Finance. One of the members is, by necessity, the official auditor.

2 — In order to execute its powers, the Fiscal Board may carry out any acts of inspection and verification that it deems opportune, namely by requiring that the Management Board present any documents for examination and verification, and also verifying the existence of any category of amounts, the providing of information and clarification regarding any course of operations or activities.

3 — It shall be the duty of the Fiscal Board to:

- a) Require its President to represent it at Management Board meetings or at Board of Trustee meetings whenever the respective Presidents of these request their attendance or when the accounts of the period are being considered at them;
- b) Carry out conscientious and impartial auditing;
- c) Maintain secrecy with regard to the data and information which it becomes aware of as a result of its duties;
- d) Make the General Council and the Management Board aware of the checks, audits and operations that it has carried out and of the results of such;
- e) Inform the Agency's bodies of any irregularities and inaccuracies verified by it.

## Article 14

### **Powers of the Fiscal Board**

1 — It shall be the responsibility of the Fiscal Board to:

- a) Check whether the powers of the Management Board, in the area of managing finances and equity, including the collection of revenue, are exercised in line with the provisions of these Statutes and with the applicable law;
- b) Monitor and check the regularity of the books, accounting records and documents which support them;
- c) Monitor and check the accuracy of the annual report, the balance sheet and the accounts of each year of the Agency's activity;
- d) Provide an official opinion on the Agency's budget and its revision and alteration, and also on the activity plan;
- e) Provide an official opinion on the management report for the period, including the legal certification of the accounts;
- f) Provide an official opinion on the acquisition, rental, transfer and creation of any charges on real estate;
- g) Provide an official opinion on the acceptance of gifts, inheritances or bequests;
- h) Provide an official opinion on the contracting of loans;
- i) Keep the Board of Trustees and the Management Board informed about the results of the checks and examinations which it undertakes;
- j) Draw up reports on its auditing activity, including a global annual report;
- l) Propose to the Board of Trustees and the Management Board the conducting of external audits, when this proves to be necessary or opportune;
- m) Preside upon issues that are submitted to it by the Board of Trustees or by the Management Board;
- n) Exercise any other powers provided for under the law and under these Statutes.

2 — The time period for producing the official opinions referred to in the previous paragraph is 15 days from receipt of the documents which relate to them.

3 — In order to exercise its powers, the Fiscal Board are entitled to:

- a) Take initiatives and engage in acts of inspection and verification that it considers opportune during the full exercise of its duties, namely those involving obtaining information and clarification which it deems necessary from the Management Board;
- b) Freely access all of the Agency's services and documents, with the possibility of requesting both the presence of the respective individuals responsible and such clarification that it deems necessary;
- c) Take or propose any other measures that it considers indispensable.

4 — Members of the Fiscal Board may not have carried out paid activities within the Agency during the three years prior to the start of their duties and may not conduct paid activities within the Agency during the three years following their term of duties.

## Section V

### **Advisory Board**

#### Article 15

##### Composition, Appointment and Running of the Advisory Board

1 — The Advisory Board is a body that advises on matters of quality assurance in higher education and provides support for the decisions of the Management Board. It consists of:

- a) Two representatives from the Council of Portuguese University Rectors;
- b) Two representatives from the Coordinating Council of Higher Polytechnic Institutes;
- c) Two representatives from the Portuguese Association of Private Higher Education;
- d) Two members to be designated by the higher education students union associations, one of them from university higher education and the other from polytechnic higher education;
- e) One representative from each of the existing Orders or public professional associations;
- f) One representative from the Council of Associated Laboratories;

- g) One member to be appointed by the employers' association which is most representative of the industry sector;
- h) One member to be appointed by the employers' association which is most representative of the trade and services sector;
- i) One member to be appointed by the employers' association which is most representative of the agricultural sector;
- j) One member to be appointed by each of the two trade union confederations which are most representative of the workers;
- l) Representatives of the interested ministries;
- m) Up to five specialists co-opted by the Board itself.

2 — The President of the Advisory Board is elected from among all members of the Advisory Board, in a meeting of the same.

3 — The Advisory Board shall ordinarily meet twice a year, following notice from its President sent at least 15 days in advance, and its members may participate by means of audiovisual conference through any technological means that ensures bona fide communication between all of them.

4 — Notification may be sent by registered or electronic mail to the addresses supplied by the members and should include the place, date and time of the meeting, as well as the agenda, any documents which are necessary to fully clarify the issues set out in the agenda and any requirements that technological means of participation may be subject to.

5 — The President of the Advisory Board shall organize a list of members participating at each meeting, either in sitio or via distance participation, and shall take minutes which will be submitted for approval and signed.

6 — The Advisory Board shall decide by majority and with a quorum of two thirds of all its members.

7 — Where there is insufficient quorum for decision-making at the first meeting called, the Board shall decide at a second call attended by the majority of the members present or participating in the meeting.

Article 16

**Powers of the Advisory Board**

The Advisory Board shall be responsible for providing an official opinion on the annual activity plan and on the Agency's major lines of activity and strategic direction.

Section VI

**Revisions Board**

Article 17

**Definition**

The Revision Board is the body for appealing to against the decisions of the Management Board on matters of evaluation and accreditation.

Article 18

**Composition of the Revision Board**

1 — The Revision Board consists of five members, with relevant professional experience, without permanent ties to Portuguese higher education institutions, and must include people with experience in foreign counterpart bodies.

2 — The appointment and statute of the members of the Revisions Board follows the regulations applicable to the appointment and statute of non-executive members of the Management Board.

Section VII

**Services and Staff**

Article 19

**Services**

Notwithstanding any other operating model that may be decided upon by the Management Board, the Agency has at its disposal:

- a) A research and analysis office, responsible for collating data, handling information, carrying out analysis and other studies, within the scope of quality assurance in higher education;
- b) A financial service, responsible for the Agency's financial management.

## Article 20

### **Staff**

1 — The services include staff with technical specialization of the duties to be carried out.

2 — Notwithstanding the provisions of the previous paragraph, the Management Board may request from public institutions with powers within the scope of higher education, science and technology, the requisition or relocation of staff to carry out duties of the Agency, under the terms of applicable legislation.

3 — The Agency may also recruit any persons, namely experts or teams of external experts in quality assurance in higher education, to perform research or assessment tasks inherent to the respective aims.

## CHAPTER III

### **Other provisions**

## Article 21

### **Publication**

1 — The regulations approved by the Agency shall be published in the 2nd series of *Diário da República* (Official State Gazette) and on the Internet.

2 — The Agency's decisions on matters of assessment and accreditation, and reports presenting the grounds for such decisions, shall be public and made available by means of the Internet.

## Article 22

### **Revenue**

1 — The following constitute revenue for the Agency:

- a) Amounts due for assessments and accreditations;
- b) Remuneration due for other services rendered;
- c) Contributions or grants awarded by any entities, as well as the product of gifts, inheritances or bequests;
- d) The product of services rendered to third parties and of the sale of its publications and studies;
- e) Any other revenue.

2 — The revenue is liquidated and collected under terms to be defined in rules approved for that purpose by the Management Board.

3 — The amount due to the Agency for each accreditation must:

- a) Reflect the average costs of the services provided;
- b) Be restricted to amounts determined according to the criteria of economy, efficiency and effectiveness, in addition to the best international practices in the field.

## Article 23

### **Expenses**

Charges incurred as a result of executing the respective powers constitute expenses of the Agency, namely those relating to:

- a) Staff;
- b) Acquisition, maintenance, hire or rental of goods and equipment;
- c) Financing of their services and the carrying out of measures and other operations as a result of their powers;
- d) Acquisition of goods and services, in particular those resulting from the collaboration of external experts.

Article 24

**European Register**

The Agency should be included in a register which is to be created under the auspices of the European system of quality assurance in higher education.