

**Law No. 38/2007, of 16 August, 2007**

Approves the legal framework for the evaluation of higher education

The Assembly of the Republic decrees the following under the terms of Article 161, paragraph c) of the Constitution:

**CHAPTER I**

**Object and scope**

**Article 1**

**Object**

The present law approves the legal framework for assessing the quality of higher education.

**Article 2**

**Scope**

The provisions set out in the present law apply to all higher education institutions and to all of their study cycles.

**CHAPTER II**

**General principles**

**Article 3**

**Object of the assessment**

1 — The object of the assessment is the quality of performance of higher education institutions by measuring the degree to which they fulfil their mission through performance parameters related to their operation and to the results that arise therein.

2 — In defining and applying the performance parameters, the evaluation takes into special consideration the difference between the objectives of university education and those of polytechnic education.

3 — The assessment uses good international practices as a reference in this area.

## Article 4

### **Quality Assessment parameters**

1 — Quality assessment parameters are those related to the way in which higher education institutions operate, specifically:

- a) The education provided, namely its scientific standard, teaching and learning methods and its procedures assessing students;
- b) The qualifications of the teaching staff and their suitability to the mission of the institution;
- c) The strategy adopted to ensure the quality of education and the way in which it is implemented;
- d) Scientific, technological and artistic activity appropriately assessed, recognised and adapted to the mission of the institution;
- e) International co-operation;
- f) Interdisciplinary, interdepartmental and interinstitutional collaboration;
- g) Organisational and management efficiency;
- h) Facilities and teaching and scientific equipment;
- i) Mechanisms for social action.

2 — Quality evaluation parameters are those which are related to the results arising from the activity of higher education institutions, specifically:

- a) The suitability of the education provided in each study cycle for the skills the acquisition of which should be ensured by those cycles;
- b) The implementation of study cycles in conjunction with other national or foreign institutions;
- c) The evolution in demand and the expansion of a social base for recruiting students;
- d) The ability to successfully promote student integration;
- e) Academic success;
- f) The integration of graduates into the labour market;
- g) Scientific, technological and artistic production which is appropriate to the mission of the institution;
- h) Contact between students and research activities from the early years;

- i) Economic optimisation of activities related to research and technological development which are appropriate to the mission of the institution;
- j) Integration in national and international projects and partnerships;
- l) The provision of services to the community;
- m) The contribution to regional and national development which is appropriate to the mission of the institution;
- n) Cultural, sports and artistic activity and, specifically, contribution to the advancement of scientific culture;
- o) Own revenue accrued through activities carried out;
- p) Information about the institution and the education that it provides.

#### Article 5

#### **Quality assessment objectives**

The quality assessment objectives are as follows:

- a) To provide improvements to the quality of higher education institutions;
- b) To provide well-founded information to the public about the performance of higher education institutions;
- c) To develop a culture of quality assurance within the institution.

#### Article 6

#### **Quality assessment and accreditation**

1 — Accreditation aims at ensuring that minimum requirements are met which lead to the official recognition of higher education institutions and their study cycles.

2 — The accreditation of higher education establishments and their study cycles within the quality assurance system framework is based on quality assessment.

#### Article 7

#### **Quality assessment principles**

The quality assessment of higher education institutions adheres to the following principles:

- a) Compulsory and periodic assessments;

- b) Participation of teachers, students and external entities;
- c) Existence of an external evaluation system characterised by the assessor's institutional and functional independence from the entity under evaluation;
- d) Internationalisation;
- e) Participation of the bodies under evaluation in external assessment procedures, including activities including proceedings of an adversary nature;
- f) The ability to appeal against decisions.

#### Article 8

### **Compulsory evaluation**

Is compulsory and takes place within the framework of the European system of quality assurance in higher education.

#### Article 9

### **Scope**

1 — applies to:

- a) Higher education institutions and their organisational units;
- b) Study cycles.

2 — Quality assessment may apply transversally to parameters which are relevant to the performance of groups of higher education institutions or study cycles.

#### Article 10

### **Forms**

Quality assessment takes the forms of:

- a) Self-assessment;
- b) External assessment.

## Article 11

### **Assessors**

1 — Self-assessment is carried out by each higher education institution.

2 — External assessment that forms the basis of the accreditation procedures is carried out by the assessment and accreditation agency for quality assurance in higher education, hereinafter referred to as the “agency”.

## Article 12

### **Participation of students**

The quality assessment system ensures student participation by means of:

- a) Their integration in self-evaluation procedures, specifically through the compulsory involvement of educational councils and student union associations;
- b) Their participation in anonymous educational surveys of the teaching staff and courses which form a compulsory part of the self-evaluation process;
- c) Interviews given during external evaluation procedures;
- d) The appointment of student association representatives to the agency body.

## Article 13

### **Participation of external bodies**

1 — The quality assessment system necessarily includes the contribution of external bodies who are relevant to the process, specifically professional orders and other public professional associations as well as other scientific, cultural and economic entities.

2 — The assessment system may include the assessment results of educational institutions or study cycles carried out by national, foreign or international institutions which conduct assessments under the principles adopted by the European system of quality assurance in higher education.

## Article 14

### **Internationalisation**

1 — External assessment must include the participation of a significant number of experts from foreign or international institutions on panels which are relevant to the evaluation.

2 — The agency may promote the evaluation of educational institutions and study cycles in conjunction with foreign institutions adopting similar features, with the specific aim of comparing performance levels of compatible institutions or courses on an international scale.

## Article 15

### **Results of the external assessment**

1 — The results of the external assessment should:

- a) Contain explicit recommendations about the decision to be made regarding accreditation or re-accreditation of the subject under assessment;
- b) Be expressed through a qualitative classification assigned to each one of the parameters considered in the assessment or to the overall evaluation on a scale that allows the object of the assessment to be placed in order and compared;
- c) Contain recommendations relating to specific aspects with a view to improving the performance quality of higher education institutions.

2 — The results of the external assessment:

- a) Must form the basis of decisions about the accreditation of higher education institutions and their study cycles;
- b) Must inform the contractual procedures between the State and higher education institutions which form the basis of their funding.

## Article 16

### **Publication**

1 — The results of the assessment are public.

2 — Higher education institutions should particularly ensure that documents produced as part of the self-evaluation process are published internally or externally.

3 — External evaluation reports are made publicly available, namely on the websites of the ministry concerned and of the institution being evaluated.

### CHAPTER III

#### **Forms of assessment**

#### Article 17

#### **Internal quality assurance**

1 — Higher education institutions should:

- a) Adopt, according to their mission, a quality assurance policy for their study cycles as well as appropriate procedures for their continuation;
- b) Strive to develop, through specific measures, a culture of quality and quality assurance in their activities;
- c) Develop and put into practice a strategy for the continuous improvement of quality.

2 — The strategy, policy and procedures stated in the previous paragraph should:

- a) Be formally approved by the legally and officially authorised body of the higher education institution and be made public;
- b) Ensure the participation of students and others who are interested in the process.

#### Article 18

#### **Self-assessment**

As part of their self-assessment, higher education institutions should:

- a) Define formal procedures for the approval, monitoring and periodic evaluation of their study cycles, which must include:
  - i) The participation of educational councils and assessment by students, specifically through those councils and student union associations;

- ii) The participation of research centres that collaborate in the organisation and implementation of study cycles;
  - iii) The participation of external advisory agencies that collaborate with the institution;
- b) Adopt adequate procedures to ensure that the teaching staff has the necessary qualifications and skills to perform its duties. These procedures should be made available to those responsible for the external evaluation process and should be subject to evaluation in the assessment reports;
  - c) Be certain that the available teaching resources are adequate and appropriate for each one of the study cycles that are offered;
  - d) Be certain that they collate, analyse and use the relevant information to effectively manage their study cycles and other activities;
  - e) Regularly publish quantitative, qualitative, up-to-date, impartial and objective information regarding:
    - i) The study cycles that they offer and the degrees and diplomas that they confer;
    - ii) Monitoring the progression of their graduates for a reasonable period of time with the aim of analysing their employability.

## Article 19

### **Principles of the external assessment**

1 — Procedures for external quality assessment should take into account the effectiveness of the internal quality assurance procedures stated in the previous article.

2 — The aims and objectives of the external evaluation procedures should be established and made public before they are implemented and applied by means of describing the procedures to be adopted.

3 — Formal decisions made as a result of external quality assessment should be based upon objective criteria which are made public, in advance, and applied systematically and consistently.

4 — External quality assessment procedures should be designed in such a way that they are shown to be appropriate to the aims and objectives previously established.

5 — External quality assessment procedures are carried out by means of evaluation panels composed of independent experts who have no relationship to the higher education institution being evaluated. They also include visits to the educational institution and hearings by institutional body representatives as well as external entities, namely professional and other associations.

6 — External assessment procedures should openly welcome contributions from all interested parties and take them into consideration.

7 — External quality assessment procedures are subject to adversary proceedings.

8 — External quality assessment procedures that contain recommendations for a specific action to be performed or call for a subsequent action plan require that a previously determined monitoring process be agreed upon and implemented consistently.

9 — External quality assessment of higher education institutions and their study cycles should be undertaken on a periodic basis.

11 — The duration of the evaluation cycle and the procedures used should be clearly defined and made public in advance.

## Article 20

### **Refusal to undergo external evaluation**

The refusal by a higher educational institution or its organisational body to undergo an external assessment implies the following:

- a) The revocation of the accreditation of their study cycles;
- b) The launching of an inquiry into the institutional working conditions with the subsequent legal consequences.

## Article 21

### **External evaluation reports**

1 — Results of the external assessment are presented in the form of a report drawn up by the respective evaluation panel and approved by the authorised body of the agency.

2 — The response from the higher education institution is always compulsory and jointly published with the external assessment reports; it is drawn up as part of the adversary proceedings.

#### Article 22

#### **Comparison**

The external assessment may lead to a comparison among higher education institutions, organisational units, study cycles and their rankings according to parameters to be established by the agency.

#### Article 23

#### **Appeals**

The decisions made by the agency as part of the quality assessment procedures are open to appeal by the respective authorised body.

#### Article 24

#### **Summary report**

The agency should periodically draw up summary reports that describe and analyse the general conclusions resulting from its activity.

### CHAPTER IV

#### **Transitional and final standards**

#### Article 25

#### **Other areas covered by the assessment**

The Government periodically encourages international assessment:

- a) Of the higher education evaluation system stated under the current law and of the agency;
- b) Of the higher education system.

Article 26

**Repeal**

Law 38/94 of 21 November, 1994, amended by Law 1/2003 of 6 January, 2003, is hereby revoked.

Article 27

**Coming into force**

The present law comes into force on the day following its publication.

Approved on 5 July 2007.

President of the Assembly of the Republic, Jaime Gama.

Promulgated on 4 August 2007.

To be published.

President of the Republic, Aníbal Cavaco Silva.

Approved on 9 August 2007.

By the Prime Minister, Fernando Teixeira dos Santos, Minister of State and Finances.