



Law n° 4/2004 of 15 January

**Establishes the principles and norms governing the organization of
Direct State Administration**

Pursuant to article 161, paragraph c. of the Constitution, the Assembly of the Republic adopts and enacts as follows:

CHAPTER I

General Principles

Article 1

Object

The present law sets out the principles and norms governing the organization of Direct State Administration.

Article 2

Scope

1. The Direct State Administration consists of the central as well as peripheral services which, given the nature of their respective powers and functions, must be put under the direct supervision of the member of the Government in charge.
2. Services upon which powers of sovereignty, authority, and political representation of the State are vested, or upon which it falls to review, conceive, coordinate, support and control or monitor other administrative services shall also be encompassed by the Direct State Administration.
3. Implementation of this law within the Armed Forces, militarized forces, and services within the Intelligence System of the Portuguese Republic shall be carried out without prejudice to the needed adaptations set out in their respective organic laws.

Article 3

Principles

1. The organization, structure, and running of Public Administration shall be governed by the following principles: unity and effectiveness of Public Administration acts, bringing services closer to population groups,



debureaucratisation, and rationalization of means, efficient appropriation of public funds, qualitative and quantitative improvement of services provided and of insurance of citizens' participation, as well as all other constitutional principles inherent in administrative action and provided for by the Code of Administrative Proceedings.

2. The principle of unity and effectiveness of Public Administration action is both materialized by the exercise of hierarchical powers, namely management powers, substitution and repeal powers, and by the underlying guarantees of users within the framework of the powers herein contained.
3. In order to comply with the principle of bringing services closer to citizens, tasks assigned by each service shall be performed at the territorial level closest to the public.
4. Debureaucratisation shall translate into a clear definition of functions, powers, and assignments, and into thinner existing organic structures. Likewise, decision-making hierarchical levels shall be streamlined.
5. To achieve rationalization, limits shall be imposed on existing resources, and delivering effective services shall be an objective, thus avoiding that new services be created and that powers or functions be dispersed into small organic units.
6. A number of outputs delivered by Direct State Administration services may be assigned or licensed to the private sector for a limited time span and within the Constitutional frame and specific legislation so as to achieve more efficient allocation of public resources and more and better services delivered to users.
7. In order to comply with the principle of users' participation, Direct State Administration services shall ensure that they complement and interact with both the public and representatives of social and economic interests.
8. Bearing in mind the public interest, Direct State Administration services, and bodies shall conform with the general principles set out in previous paragraphs through the improvement of:
 - a) Customer-led services;



- b) Impartiality in output delivering;
- c) Accountability of public management at all levels;
- d) Streamlining and speeding-up of administrative proceedings;
- e) Effectiveness in goals set out, and assessment of outcomes;
- f) Efficiency in the deployment of public resources;
- g) Permanent openness and adaptability to IT;
- h) Use of scalable modes of operation according to objectives and available resources and technologies.

CHAPTER II

Ministries

Article 4

Ministries

The organic law of each ministry sets out the corresponding functions as well as the organic structure needed for operation. Likewise, a distinction is made between direct and indirect administration-led bodies and services.

Article 5

Organizational Principles

The structure pattern of ministries shall comply with the following:

- a) The structure shall be tailored to the expected outcome and shall ensure a fair balance between operational and support structures;
- b) A balance shall be stricken between central and peripheral services so as to achieve quality services;
- c) Homogeneous functions of mi-ministries shall be de-fragmented into preferably medium or large-sized services enjoying clearly defined powers and in line with the principle of functional segregation so as to achieve outcome-oriented accountability;
- d) Simple and coherent information and communication circuits shall be implemented tending to aggregate into a single centralized system of information which is commonly used, either at ministerial or inter-ministerial level;
- e) Common functions set out in the following article shall be assigned to existing services within each ministry, thus avoiding the creation of new services;



- f) Hierarchical decision-making levels shall be reduced to a minimum needed for the correct achievement of goals;
- g) In the event of new assignments, existing services shall preferably be re-structured instead of creating new ones.

Article 6

Common Functions

1. The following common functions are assigned to ministries:
 - a) Preparation and follow-up of the running budget execution;
 - b) Planning of public investment and preparation and execution of the budget thereof;
 - c) Management of organization and human resources and modernization of public services;
 - d) Administrative support to the Portuguese participation within European institutions for Community policies;
 - e) International relations within the framework of their assignments.
2. Common functions of ministries are matched by functions to be carried out by one or more Direct State Administration services within each ministry. Functions set out in paragraphs a), b) and c) shall preferably be performed by the Secretariat-General.

Article 7

Consulting bodies

1. Consulting bodies provide support to the designing and follow-up of public policies falling upon the Government through the cooperation between Public Administration, renowned entities, and representatives of social and economic interests.
2. Consulting bodies review and formulate opinions on issues submitted to them by members of the Government.
3. Consulting bodies are central and operate under the direct supervision of the member of the Government in charge. Logistical, administrative, and financial support to consulting bodies shall be provided by services within the respective ministry.



4. Consulting bodies are set up by means of an implementation decree stating the rules needed for their operation.

CHAPTER III

Operation patterns

Article 8

Sharing of common activities

1. The sharing of common activities shall be fostered among services within one or more ministries so as to optimize resources.
2. The sharing of common activities does not harm inherent or delegated powers vested in top managers. Protocols may be established to define clearly the way each party shall operate.
3. This operation pattern covers namely the following administrative and logistical activities:
 - a) Negotiation and procurement of goods and services;
 - b) IT systems;
 - c) Management of buildings;
 - d) Security and cleaning services;
 - e) Management of car fleets;
 - f) Accounting and payrolls.
4. Other operation patterns may be suggested within the same ministry provided they embed the principles of service sharing.
5. Staff previously assigned to those activities may be requisitioned or transferred to the service provider so as to comply with provisions set out in the above-mentioned paragraphs. Nevertheless, a minimum structure shall be kept running with a view to facilitating the transaction of business with this service.
6. In the event of staff transferral, the incoming servants shall be included in the target regular establishment, eliminating such posts, if need be, from the source establishment.



Article 9

Networking

1. Networking shall be adopted whenever the total and efficient performance of State functions depending on an additional service or body are at stake, irrespective of the ministerial or inter-ministerial nature.
2. Within the framework of this operation pattern relevant or common use information shall always be integrated or made available in e-format.
3. Networking shall be considered at the setting up of the internal structure of services involved.

Article 10

Information Systems

1. Direct State Administration services shall be equipped with an internal information system making it possible to:
 - a) Disseminate information between bodies by e-mail or via the Internet, using the least possible paper format;
 - b) Provide information needed for the smooth management of human, budget, and material resources;
 - c) Coordinate, monitor, and assess outcomes by bodies in charge of human, budget, and material resources management.
2. Direct State Administration services shall optimize the use of e-government tools in delivering direct services to users, communities, and companies so as to:
 - a) Supply all relevant data and information;
 - b) Simplify integrated processing of relationships between the State and citizens;
 - c) Improve the efficiency and effectiveness of public procurement for piece work, goods, and services;
 - d) Contribute to making the most of economic development opportunities.



CHAPTER IV

Services of the Direct State Administration

SECTION I

General Provisions

Article 11

Type of Services

1. For the purposes of this Law, by mission it is meant the summarised description of the fundamental and determining functions of each service as well as the major objectives to be fulfilled.
2. The services operating within Direct State Administration are broken down as follows according to their dominant function:
 - a) Executive services
 - b) Control, audit, and supervising services
 - c) Coordinating services
3. Definition of services according to their dominant function shall be without prejudice to the assignment of other functions of a different nature, provided that they are related or complementary to the dominant function.
4. Services operating within Direct State Administration may be central or peripheral as defined hereunder:
 - a) Central services are empowered to operate all over the national territory, irrespective of there being or no geographical devolution of authority;
 - b) Peripheral services are empowered for a given territorial area only and operate under the supervision of the member of the Government in charge.
5. External peripheral services shall be empowered to operate outside the national territory and their internal structure may be defined according to their specificities without prejudice to the general principles set out in this Law.



Article 12

Financial treatment

As a rule, the services operating within Direct State Administration shall enjoy administrative autonomy for running expenditure.

SECTION II

Executive Services

Article 13

Objectives

The executive services operating within Direct State Administration shall ensure the implementation of public policies for which each ministry is in charge. They shall deliver services within the scope of their functions, or provide support to the members of government they are accountable to, in the following areas:

- a) Implementation of public policies set out by the Government;
- b) Surveys and design, or planning;
- c) Management of organizational resources;
- d) Relations with the European Union;
- e) International Relations

Article 14

Functional titles

1. Executive services in charge of public policies shall be known as directorate-generals or regional directorates in the event of peripheral services.
2. The Services that the dominant mission consists in providing support in the areas set out in the previous article shall be central services and known as offices or secretariats.



SECTION III

Control, Audit and Supervising Services

Article 15

Objectives

The Control, Audit, and Supervising Services are in charge of permanent follow-up and assessment of the implementation of public policies and may carry out inspection or audit functions.

Article 16

Functional titles

Whenever inspection is the dominant function, central or peripheral control, audit, and supervising services shall be known as inspectorate-generals or regional inspectorates respectively, as the case may be.

SECTION IV

Coordinating Services

Article 17

Objectives

1. Coordinating services shall promote articulation in areas where there is a permanent need for articulation.
2. For the purposes of the proviso set out in the previous article, it shall fall upon coordinating services:
 - a) To harmonize the formulation and implementation of public policies assigned to the Government;
 - b) To ensure the rational, conjugated and efficient use Public Administration resources;
 - c) To formulate opinions on issues submitted within their coordinating action by members of Government.



Article 18

Hierarchical Relationship

1. Coordinating services may operate either on an inter-ministerial or intra-ministerial level. Specific legislation thereto shall clearly indicate the member of Government they report to in the event of an inter-ministerial nature.
2. The specific legislation setting out such services shall clearly indicate the management level matching the status of the coordinator.

Article 19

Support to the Coordinating Services

Coordinating services are central services. An order from the supervising member of Government shall indicate the services in charge of providing logistical, administrative and financial support to the running of said services.

CHAPTER V

Internal Organisation of Services

Article 20

Types of Internal Organisation

1. The internal organisation of executive services and control and supervising services shall be tailored to the assignments of said services and shall comply with the following patterns:
 - a) Hierarchical structure;
 - b) Matrix structure
2. Whenever a mixed structure pattern is adopted, the specific legislation creating that service shall clearly identify the scope of action for each pattern adopted.
3. In the event the hierarchical structure is adopted solely, and provided it is so justifiable with a view to achieve a more flexible and effective management, temporary project teams may be set up by an order from the top manager in charge.



Article 21

Hierarchical Structure

1. The internal hierarchical structure shall be made up of core and flexible organic units.
2. The core structure of the service shall be composed of heads of services corresponding to a rigid departmentalization.
3. The flexible structure shall be made up of divisions.
4. The core structure of services and the definition of functions and powers of corresponding organic units shall both be approved by a joint order from the member of Government in charge, the Finance Minister and the minister in charge of Public Administration.
5. The flexible organic units shall be set up, modified or dismantled by an order from the senior manager in charge of the service who shall define the powers and functions as well as staff assignment or re-assignment within the establishment, in line with the previously set maximum limit fixed by an order from the member of Government in charge.
6. The setting up, modification or dismantling of organic units within the flexible structure aims at permanently ensuring that the service is tailored to the needs of operation and optimisation of resources and allowing for selective planning and control of costs and outcomes.
7. The orders referred to in n^o 5 shall be published in the Portuguese Official Gazette.
8. Whenever functions of a predominantly administrative nature are at stake, sections may be set up within heads of divisions or services.
9. Dedicated organisation shall not hinder functional mobility of senior officers and remaining staff.

Article 22

Matrix Structure

1. A matrix structure shall be adopted whenever the operational areas of services can essentially be project-oriented. Said areas shall be grouped



into clearly defined authority or product centres with a view to set up multi-purpose panels based on functional mobility.

2. The setting-up of these multi-purpose panels and appointment of their higher officers among the staff establishment falls with the top manager.
3. The pay scheme of panel leaders shall be encompassed by the order setting up the service and shall be made equivalent to the pay scheme set out for the heads of division or heads of services. The maximum allocation for panel leaders shall be fixed by an order from the member of the Government in charge.

Article 23

Senior Directing Staff

1. Senior directing staff of central executive services and of control and supervising services shall hold senior posts of grade 1. They shall be assisted by managers holding senior posts of grade 2, irrespective for all purposes, of their titles.
2. The categorization of managerial positions of senior directing staff of devolution services shall be defined by the piece of legislation creating said service according to the level of authority and accountabilities assigned to them.
3. The head of services and of divisions fit into the middle line management of grade 1 and grade 2 respectively.
4. The heads of services may be placed under the direct supervision of the director-general or equivalent position, or of deputy directors or equivalent positions. As to the latter ones, terms and conditions shall be fixed by the top manager.
5. There may be divisions reporting directly to the director-general or one of the deputy directors.



CHAPTER VI

Setting up, Restructuring, Merger, and Dismantling of services

Article 24

Nature and Content of Legislation

1. The setting up, restructuring, merger, and dismantling of Direct State Administration services shall be approved by implementing regulations. These shall embody:
 - a) The designation of the new service, of the services which engendered them, or the dismantled service in the event of the setting up, restructuring or merger, or dismantling as the case may be;
 - b) The definition of the functional nature as to executive services or control and supervising, or coordinating services as the case may be;
 - c) The mission;
 - d) The clearly defined assignments;
 - e) The clearly defined operating patterns and the internal organisation pattern;
 - f) Staffing plans for senior and middle management of grade 1;
 - g) The pay scheme for the multi-purpose panel leaders, if applicable.
2. Approval of and changes to the staff establishment shall be provided for by a joint order from the supervising minister, the Finance Minister, and the minister in charge of Public Administration.

Article 25

Restructuring, Dismantling, or Merger of Services

1. Whenever a service has been relieved of its functions or when it is delivering complementary, overlapping, or parallel outputs, the member of the Government in charge shall propose, as the case may be, that such service be dismantled, restructured, or merged.
2. The proposal referred to herein shall be duly justifiable and motivated as to the discharge of services in question, or complementary, overlapping, or parallel outputs.



3. The legislation referred to in this article shall provide for the assignment of rights and duties and also determine the relocation of funds and organizational resources. Likewise, it shall contain the rules on staffing in line with applicable laws.

Article 26

Streamlining of Services

1. The setting up of new services means no other services are operating and delivering fully or partially the same outputs, or the dismantling of services delivering such outputs. Consequently, functions underlying the decision to set up a new public service shall be clearly defined.
2. No new services within Direct State Administration shall be set up if assignments thereof are or may be fulfilled by ongoing services.
3. The assignments and powers vested upon the various services and departments thereof shall make it possible to identify outcome-oriented accountability at the different hierarchical levels or within the different scope of activities.

Article 27

Previous Opinions

1. The proposal dealing with the setting up, restructuring, merger, or dismantling of services shall only be submitted to the Council of Ministers provided that previous opinions have been issued by authorized services accountable to the member of Government in charge, the Finance Minister, and the minister in charge of Public Administration.
2. The opinions referred to in the preceding paragraph shall focus namely on the conformity to:
 - a) The budgetary restraint in effect;
 - b) The provisions and guidance set out herein and possible on going services delivering complementary, overlapping or parallel outputs.
3. For the purposes of the preceding paragraph all draft bills shall embed the improvements that foster the decision-making process bearing in mind the core functions of the service.



4. In the event a proposal is put forward to set up, restructure, merge or dismantle a Direct State Administration service, the Finance Minister and the minister in charge of Public Administration may jointly or separately determine that the authorised services conduct audits as they see fit to it.

CHAPTER VII

Provisional Structures

Article 28

Mission hubs

1. Temporary missions that cannot be basically carried out by existing services may be assigned to mission hubs set up by a resolution from the Council of Ministers.
2. Mission hubs shall have a limited tenure and contract-led outcomes and shall depend upon the logistical support provided by the secretariat or any other executive service.
3. The Council of Ministers resolution shall compulsorily embed the following:
 - a) The title of the mission hub;
 - b) Identification of the mission;
 - c) Terms of office and tenure as well as clearly defined outcomes;
 - d) The status of the officer in charge as well as of the remaining staff;
 - e) The staffing and functions thereof;
 - f) The budget expenditure and the authorizations.
4. Mission hubs shall mainly resort to staff secondment and requisition within the Public Administration regular establishment.
5. As an exception and provided it is duly justifiable, individual fixed-term contracts may be entered into. Termination of said contracts shall be the termination date thereof.
6. The mission hub shall be relieved of its duties at the end of the office tenure without prejudice to the fact that the authority thereof may be extended by a resolution from the Council of Ministers duly justifying said decision and reporting the performance monitoring of initial outcomes.



7. Once the mission is over, the head of the mission shall draft a progress report which is to be advertised on the Web site of the Ministry after approval by the member of the Government in charge.

CHAPTER VIII

Final and Transitional Provisions

Article 29

Dissemination

1. The ministry in charge of Public Administration shall set up and permanently update a data base of Public Administration services. Likewise, a search by ministry shall be made available. The most effective dissemination shall be assured, namely by resorting to the citizen's portal.
2. Dissemination referred to in the preceding paragraph shall include an organization chart for each ministry as well as references to organic legislation in force.

Article 30

Evaluation of Outcomes

Services within the Direct State Administration shall be subject to outcome evaluation as determined by a joint order from the Finance Minister and the supervising minister. The evaluation shall be carried out by outside auditors or by official control bodies.

Article 31

Adaptability of Secretariats

1. Secretariats shall be assigned the following tasks, provided they have not been legally entrusted with other services within the same ministry:
 - a) To provide members of Government holding offices in the ministry with the technical and administrative assistance they shall require and which are not within the scope of other services;
 - b) To promote the implementation of organisational and human resources policies devised for Public Administration. Likewise, they shall coordinate



and support ministerial services and bodies in implementing said policies;

- c) To issue opinions on organization, human resources, and the creation of or changes to the establishment plan;
- d) To review, program, and coordinate the implementation of measures leading to permanent and systematic innovation, modernization, and quality at the ministerial level;
- e) To ensure management of facilities for which they are responsible either by way of law or higher decision, namely as to rehabilitation and maintenance;
- f) To coordinate action in the field of organization and protection of property and historical archives;
- g) To ensure the normal functioning of the ministry as to issues not within the specific scope of other services.

- 2. For the purposes of paragraphs b), c), and d) of the preceding number, the secretariats shall enjoy a prevailing relationship with the ministry in charge of Public Administration through the competent service.
- 3. The organic laws relating to secretariats and not contemplating assignments contained in the preceding numbers, provided that they have not been legally entrusted to other ministerial services, shall be revised within no more than a year after this law has come into effect.

Article 32

Transition Period

- 1. All legal provisions contained in organic legislation setting up organic units categorized herein as services' core units or flexible units shall have the same statute as implementing orders.
- 2. The services operating within the Direct State Administration shall promote a review of their internal structures in compliance with the principles set out herein within 180 days as from the date of entering into effect.



Article 33

Repeal

The following legislation is repealed:

Decree-Laws nº 26 115 of 23 November 1935; 59/76 of 23 January, articles 2 to 5 and 10 of Decree-Law nº 41/84 of 3 February and Decree-Law nº 100-A/85 of 8 April.

Article 34

Effectiveness

The present law becomes effective as of the first day of the month following its publication.

Approved on 27 November 2003.

The President of the Assembly of the Republic, *João Bosco Mota Amaral*.

Promulgated on 30 December 2003.

Good for publication.

The President of the Republic, JORGE SAMPAIO.

Countersigned on 31 December 2003.

The Prime Minister, *José Manuel Durão Barroso*