

Law no.10/2000 of 21 June

Legal framework for the publication and dissemination of opinion polls and surveys

Under the terms of article 161 paragraph *c*), of the constitution, to serve as a general law, parliament does duly decree as follows:

Article 1

Purpose

1— This law regulates the carrying out and publication or public dissemination of opinion polls and surveys produced with a view to public disclosure the purpose of which is directly or indirectly related with:

a) Constitutional bodies, namely their status, competence, organisation, operation, responsibility and termination, as well as, as the case may be, the selection, appointment or co-opting, action and resignation or dismissal of the respective incumbents;

b) Convening, carrying out and purpose of national, regional or local referenda;

c) Political associations or political parties, namely their formation, articles of association, designation, abbreviation and symbol, internal organisation, operation, exercising of rights by their members and the respective dissolution or termination, as well as, as the case may be, the selection, action and resignation or dismissal of the incumbents of their central and local bodies.

2— The provisions of the previous number cover the publication or public dissemination of voting forecasts or simulations which are based on the opinion polls referred to therein, as well as any opinion poll data which, not initially being intended for public disclosure, are disseminated in media bodies.

3— The carrying out and publication or public dissemination of opinion polls and surveys produced with a view to public disclosure in fields of public interest shall be regulated by the government by means of a decree-law.

4— The provisions of this law act apply to the publication or dissemination of opinion polls and surveys in the electronic edition of media which also use other support or promoted by an equivalent entity in solely digital dissemination when this is carried out by means of publicly used electronic networks through domains managed by the Fundação para a Computação Científica Nacional (National Foundation for Scientific Computing) or, when the incumbent of the registration is subject to Portuguese law, by any other entity.

Article 2

Definitions

For the purposes of the present law the following meanings are assumed:

a) Opinion survey, the noting of phenomena related with the provisions of the previous article through a mere information-gathering process from all or part of the statistical universe;

- b)* Opinion poll, the noting of phenomena related with the provisions of the previous article the study of which is carried out using the statistical method when the number of cases observed fails to contain the whole statistical universe, solely representing a sample;
- c)* Sample, the subset of the population surveyed using a statistical technique which consists of submitting a statistical universe by means of a quantitative generalisation operation carried out with regard to the phenomena selected.

Article 3 **Accreditation**

1— Opinion polls may only be carried out by entities accredited for carrying out this activity with the Alta Autoridade para a Comunicação Social.

2— The accreditation referred to in the previous number consists of the following elements:

- a)* Designation and head offices, as well as any other identifying elements of the entity which it is proposed to carry out the activity;
- b)* Sworn copy of the respective act of incorporation;
- c)* Identification of the technical manager.

3— The transfer of ownership and any change of the technical manager must be notified within no more than 30 days after their occurrence to the Alta Autoridade para a Comunicação Social.

4— The accreditation referred to in no.1 expires if, for the period of two consecutive years, the accredited entity is not responsible for carrying out any opinion poll published or disseminated in the media.

5— Notwithstanding the provisions of the previous number, any other accreditation formalities and requirements are subject to government regulation.

Article 4 **General rules**

1— The entities that carry out the poll or survey observe the following rules with regard to the people surveyed:

- a)* Prior consent of the people surveyed;
- b)* The parties surveyed must be informed which entity is responsible for carrying out the poll or survey;
- c)* The anonymity of the people surveyed must be ensured, as well as of the way in which they responded;
- d)* Subsequent interviews with the same people surveyed may only occur when their prior consent has been obtained.

2— When carrying out polls, the accredited entities must observe the following rules:

- a)* The questions must be posed with objectivity, clarity and accuracy, without directly or indirectly suggesting the way in which they should be responded;

- b)* The sample must be representative of the statistical universe from where it has been extracted, namely, in terms of the region, size of the towns/cities, age of the parties surveyed, gender and level of education or other appropriate variables;
- c)* The interpretation of the raw results must be carried out in such a way as not to falsify or distort the outcome of the poll;
- d)* The time period which elapses between the carrying out of the information-gathering works and the publication date of the results by the media body must ensure that the results obtained shall not be out-of-date, without prejudice to the provisions of article 10. no.3

3— The accredited entities must ensure that the technicians who, under their responsibility or at their expense, carry out opinion polls or surveys and technically interpret the results obtained observe the codes of conduct for their profession which are internationally recognised.

Article 5

Deposit

1— The publication or public dissemination of any opinion poll is only allowed after the depositing it with the Alta Autoridade para a Comunicação Social, accompanied by the technical data sheet referred to in the article below.

2 — The deposit referred to in the previous number must be carried out by any reliable means, namely by email or fax, within thirty minutes before the publication or public dissemination of the opinion poll, except in the event of a poll on the day of an electoral act or referendum in which case its depositing may be carried out concurrently with the dissemination of the respective results.

Article 6

Technical data sheet

1— For the purposes of the provisions of the previous article, the technical data sheet must contain the following information:

- a)* The designation and head offices of the entity responsible for carrying it out;
- b)* The identification of the technician responsible for carrying out the poll and, where applicable, of the entities and other people who carry out relevant work in this field;
- c)* Socio-professional summary sheet of the technicians who carried out the information-gathering works or the technical interpretation of the results;
- d)* The identification of the client;
- e)* The central purpose of the opinion poll and any intermediate targets related therewith;
- f)* The description of the universe from which the sample is taken and its quantification;
- g)* The number of people surveyed, their geographic distribution and composition, showing the sample foreseen and that obtained;

- h) The description of the sample selection methodology, referring to the successive selection methods of units up to the surveyed parties;
- i) In the event of polls carried out with the use of a panel, a technical characterisation of this panel, namely in terms of the number of elements, selection or other characterisation deemed relevant;
- j) An indication of the method deployed to gather information, whatever its nature;
- l) In the case of documentary studies, a precise indication of the sources used and their validity;
- m) An indication of the information-gathering control methods and the percentage of interviews controlled;
- n) Raw poll results, prior to any scoring and any distribution of undecided voters, non-voters and those abstaining;
- o) The response rate and indication of any biases that the non-respondents may introduce;
- p) An indication of the percentage of people surveyed whose response was «don't know/no answer», as well as, in the case of polls whose object is to ascertain voting intentions, the percentage of people who declared that they were going to abstain, provided that it is assumed that this is liable to significantly alter the interpretation of the results;
- q) Whenever there is redistribution of undecided voters, the description of the possibilities on which this is based;
- r) The full text of any issues raised and any other documents submitted to the parties surveyed;
- s) The statistical margin of error associated with each poll/survey, as well as the level of statistical significance of the differences pertaining to the main results of the opinion poll;
- t) The maximum scoring coefficients and methods which may have been deployed;
- u) The date or dates on which the information-gathering works took place;
- v) The name and post of the person responsible for completing the data sheet.

2— For the purposes of paragraph r) of the previous number, in the case of an opinion poll intended for a large number of clients, the technical data sheet should only include that part of the questionnaire pertaining to each specific client.

3— The technical data sheet model is determined by the Alta Autoridade para a Comunicação Social.

Article 7

Rules to be observed in the dissemination or interpretation of polls

1— The publication, dissemination and technical interpretation of the data obtained from opinion polls must be carried out in such a way as not to falsify or distort their results, meaning and limits.

2— Notwithstanding the provisions of the number below, the publication of opinion polls in the media is always accompanied by the following information:

- a) The designation of the entity responsible for carrying it out;

- b) The identification of the client;
- c) The object of the opinion poll;
- d) The target universe of the opinion poll;
- e) The number of people surveyed, their geographic distribution and composition;
- f) The response rate and indication of any biases that the non-respondents may introduce;
- g) An indication of the percentage of people surveyed whose response was «don't know/no answer», as well as, in the case of polls whose object is to ascertain voting intentions, the percentage of people who declared that they were going to abstain, provided that it is assumed that this is liable to significantly alter the interpretation of the results;
- h) Whenever there is redistribution of undecided voters, the description of the possibilities on which this is based;
- i) The date or dates on which the information-gathering works took place;
- j) The sampling method adopted and, in the case of random samples, the response rate obtained;
- l) The method deployed to gather information, whatever its nature;
- m) The basic questions asked;
- n) The statistical margin of error associated with each poll/survey, as well as the level of statistical significance of the differences pertaining to the main results of the opinion poll.

3— The dissemination of opinion polls at radio or TV stations is always accompanied at least by the information included in paragraphs *a)* to *i)* of the previous number.

4— Any reference, in texts of a solely journalistic nature published or disseminated in the media, to polls which have been subject to publication or public dissemination must always be accompanied by a mention of the place and date of the first publication or dissemination, as well as an indication of the party responsible.

Article 8

Rules to be observed in the dissemination or interpretation of surveys

1— The parties responsible for the publication, public dissemination or technical interpretation of data gathered in opinion surveys must ensure that the results submitted are not capable of being taken as representative of a wider reaching universe than that of the people interviewed.

2— For the purposes of the provisions of the previous number, the publication or public dissemination of the opinion survey must be accompanied by a clearly visible or audible warning that said results do not scientifically allow generalisations, merely representing the opinion of the people surveyed.

3— The dissemination of the data gathered by opinion surveys must, if its up-to-date nature is not evident, be accompanied by an indication of the dates on which the respective information-gathering works were carried out.

Article 9

First dissemination of poll

The first public dissemination of any opinion poll must be carried out within 15 days after the mandatory depositing date referred to in article 5.

Article 10

Dissemination of polls pertaining to votes

1— It is forbidden to publish and disseminate or comment on, analyse and project the results of any opinion survey or poll, directly or indirectly related with electoral acts or referenda covered by the provisions of article 1, nos.1, 2 and 4, as from the end of the campaign for the electoral act or referendum until the closure of the ballot boxes nationwide.

2— On the day prior to carrying out of any electoral act or referendum covered by the provisions of article 1, no.1 only the rectification deliberations approved by the Alta Autoridade para a Comunicação Social may be disclosed.

3— In the two months preceding the carrying out of any electoral act related with the bodies covered by the provisions of article 1, no.1 and the voting in a national, regional or local referendum, the first publication or public dissemination of opinion polls must occur within 15 days after the date on which the information-gathering works ended.

Article 11

Carrying out of opinion polls or surveys on the day of an electoral act or referendum

1— When carrying out opinion polls or surveys at the voting sites on the day of an electoral act or referendum, it is not permitted to survey electors inside the rooms where the polling stations are operating.

2— In the vicinity of the voting sites, data may only be gathered by duly accredited interviewers, deploying surveying techniques that safeguard the secrecy of the ballot, namely by means of the simulation of voting in a ballot box and only after the exercising of the right to vote.

Article 12

Notification of poll to the parties concerned

Whenever the opinion poll is carried out for public corporate bodies or corporations whose capital is exclusively or mainly public, the information contained in the technical data sheet foreseen in article 6 must be communicated to the bodies, entities or candidatures directly involved in the results submitted.

Article 13

Complaints about opinion surveys or polls

1— Any complaints about publicly disseminated opinion surveys or polls which invoke any breaches of the provisions of the present law, must be lodged, as the case may be, to the Alta Autoridade para a Comunicação Social or to the National Election Commission.

2— Notwithstanding the provisions of the number below, should there be any complaint about the publication or dissemination of the opinion surveys or polls foreseen in article 1, no.1 the Alta Autoridade para a Comunicação Social must decide about the complaint within no more than eight days after receipt thereof.

3— During electoral campaign periods for those bodies or entities covered by the provisions of article 1, no.1 or for a national, regional or local referendum, the decision referred to in the previous number above must be given within forty-eight hours.

Article 14

Duty of rectification

1— The party responsible for the publication or dissemination of an opinion survey or poll in breach of the provisions of this law or altering the meaning of the results obtained, is obliged to have published or disseminated, at its expense and in the same media, those rectifications which are subject to a decision by the Alta Autoridade para a Comunicação Social.

2— Notwithstanding the provisions of the number below, the obligation to rectify the opinion survey or poll has been complied with:

a) In the event of publication in written media, in the edition subsequent to the notification of the deliberation;

b) In the event of dissemination via radio or TV stations, on the day immediately subsequent to that of receipt of the notification of the deliberation;

c) In the event of public dissemination in any way other than those foreseen in the previous paragraphs above, on the day immediately subsequent to that of the receipt of the notification of the deliberation in the written media whose expansion coincides with the geographic area involved in the object of the opinion survey or poll.

3— In the event that the publication or dissemination of the rectification by the same media occurs during an electoral or referendum campaign period, the party responsible for publication or initial dissemination must ensure the rectification, at its expense, in an electronic edition and in media of a similar size, within no more than three days, but prior to the period during which its dissemination is forbidden under the terms of article 10, no.1.

4— In those cases foreseen in no.2 paragraphs *a)* and *b)* and of the previous number, the publication or dissemination must be carried out, as the case may be, on pages or spaces and timetables identical to those occupied by the opinion surveys or polls rectified, with a special note, duly highlighted, on the first page of the edition or at the start of the programme broadcast and an indication of the circumstances which determined this procedure.

Article 15

Alta Autoridade para a Comunicação Social (Higher Media Authority)

1— Notwithstanding the provisions of the article below, the competent entity to verify the terms of implementation of the opinion polls and surveys and the thoroughness

and objectivity of the public dissemination of its results, under the terms defined by this law, is the Alta Autoridade para a Comunicação Social.

2— For the purposes of the previous number, it is incumbent upon the Alta Autoridade para a Comunicação Social:

- a)* To accredit those entities with the capacity to carry out opinion polls;
- b)* To adopt the reference technical standards to be observed when carrying out, publishing and disseminating any opinion surveys and opinions, as well as for the technical interpretation of the respective results;
- c)* To issue general opinions related with the application of this law throughout Portugal;
- d)* To clarify any queries raised to it by those entities responsible for carrying out opinion surveys and polls;
- e)* To assess any complaints lodged under the terms of article 13;
- f)* To draw up an annual report regarding compliance with the present law, to be sent to parliament by 31 March of the year subsequent to that which it relates;
- g)* To apply the administrative fines foreseen in article 17, with the exception of that foreseen in no.1, paragraph *g*.)

3— The Alta Autoridade para a Comunicação Social is also entitled to determine, from the entities responsible for carrying out the opinion surveys and polls, the presentation of the processes pertaining to opinion surveys and polls published or disseminated or to request from these entities the provision, within a maximum timeframe of forty-eight hours, of clarifications or documentation required to arrive at its deliberation.

Article 16

National Electoral Commission

it is incumbent upon the National Electoral Commission:

- a)* To authorise the carrying out of polls on the day of an electoral or referendum act, to accredit the interviewers to this end and supervise compliance with the provisions of article 11, as well as to cancel, by way of a well-founded act, any permits which have been granted previously;
- b)* To apply the administrative fines foreseen in no.1, paragraph *g*) of the article below.

Article 17

Administrative offences

1— The following are subject to a minimum administrative fine of PTE 1,000,000 and a maximum amount of PTE 10,000,000 is applicable to any individual infringer and a minimum administrative fine of PTE 5,000,000 and maximum of PTE 50,000,000 is applicable to any corporate body infringer notwithstanding the provisions of no.2:

- a)* Whosoever carries out an opinion poll published or disseminated in any media or under the terms of article 1, no.4 without being duly accredited under the terms of article 3;

- b) Whosoever publishes or disseminates opinion surveys or information gathered by televoting, presenting them as if they were opinion polls;
- c) Whosoever carries out opinion polls in breach of the rules foreseen in article 4;
- d) Whosoever carries out an opinion poll published or disseminated in any media or under the terms of article 1, no.4 without having made the deposit under the terms foreseen in articles 5 and 6;
- e) Whosoever publishes or disseminates opinion surveys, as well as its comment, interpretation or analysis in breach of the provisions of articles 7, 9 and 10;
- f) Whosoever publishes or disseminates opinion polls in breach of the provisions of article 8;
- g) Whosoever carries out opinion surveys or polls in breach of the provisions of article 11 and of paragraph a) of the previous article;
- h) Whosoever, having carried out an opinion poll or survey published or disseminated, fails to provide the Alta Autoridade para a Comunicação Social with the documents or processes requested by it during the discharging of its duties;
- i) Whosoever fails to comply with the duty of rectification foreseen in article 14 or the publication or dissemination of administrative or judicial decisions referred to in the article below.

2— However, the minimum and maximum amounts foreseen in the general regime for administrative offences shall be applicable if they are greater than those stipulated in the previous number above.

3— The product of the administrative fines shall fully revert to the state coffers.

4— Any breach of the provisions of article 10 no.1 shall also be sentenced as a crime of qualified disobedience.

5— Negligence is punished.

Article 18

Publication or dissemination of administrative or judicial decisions

Any decision not appealed against which applies the administrative fine foreseen in the previous article or any formal, final judicial decision pertaining to an appeal against the same decision, as well as the application of the sentence pertaining to the commission of a crime foreseen in no.4 of the previous article, must be published or disseminated by the entity subject to sanction under the terms foreseen in article 14.

Article 19

Transitory regulation

Those entities which have carried out opinion polls published or disseminated in the media in the two years prior to the coming into force of the present law and which put themselves forward to continue to carry out this activity must, within 60 days, be accredited by the Alta Autoridade para a Comunicação Social, under the terms of article 3, no.2.

Article 20
Repealing regulation

Law no.31/91 of 20 July is repealed.

Article 21
Coming into force

This law shall come into force 60 days after its publication.

Approved on 4 May 2000.

The Speaker of Parliament, *António de Almeida Santos*.

Enacted on 1 June 2000.

Let this be duly published.

The President of the Republic, JORGE SAMPAIO.

Countersigned on 8 June 2000.

The Prime Minister: *António Manuel de Oliveira Guterres*.