

STATUTES OF ENTIDADE
REGULADORA DOS SERVIÇOS
ENERGÉTICOS
(THE ENERGY SERVICES
REGULATORY AUTHORITY)

June 2019





Decree-Law No. [97/2002](#), of 12 April (*turns Entidade Reguladora do Sector Elétrico (the Electricity Sector Regulatory Authority) into Entidade Reguladora dos Serviços Energéticos (the Energy Services Regulatory Authority) and approves the respective Statutes*), amended by:

- [1] **Decree-Law No. [200/2002](#), of 25 September** (Amends Decree-Law No. 97/2002, of 12 April, which turns Entidade Reguladora do Sector Elétrico into Entidade Reguladora dos Serviços Energéticos and approves the respective Statutes):
- Amendment to article 46.
- [2] **Decree-Law No. [212/2012](#), of 25 September** (*Introduces the 2nd amendment to the Statutes of Entidade Reguladora dos Serviços Energéticos, transposing Directives [2009/72/EC](#) and [2009/73/EC](#), of the European Parliament and of the Council, of 13 July, concerning common rules for the internal market in electricity and natural gas, respectively, and repealing Directives [2003/54/EC](#) and [2003/55/EC](#) of the European Parliament and of the Council, of 26 June*):
- Amendment to articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 31, 32, 33, 34, 35, 38, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 54 and 55;
 - Addition of articles 7-A and 30-A;
 - Amendment to the systematic organisation:
 - a) Chapter I consists of articles 1 to 7-A;
 - b) Chapter II is renamed «Competences of ERSE»;
 - c) Current sections I, II and III of chapter II bear the following headings and structure:
 - i) Section I is renamed “Generic competences of ERSE» and consists of article 8;
 - ii) Section II is renamed “Implementing competences» and consists of articles 9 and 10;
 - iii) Section III is renamed “Regulatory and supervisory competences» and consists of articles 11 to 14;
 - d) Three sections are added to chapter II, as follows:
 - i) Section IV, which bears the heading «Advisory competences» and consists of articles 15 to 18;
 - ii) Section V, which bears the heading «Sanctioning competences» and consists of article 19;
 - iii) Section VI, which bears the heading «Dispute settlement» and consists of articles 20 to 25;
 - e) Chapter III is divided into five sections, as follows:
 - i) Section I, which bears the heading «Bodies» and consists of article 26;
 - ii) Section II, which bears the heading «Board of Directors» and consists of articles 27 to 34;
 - iii) Section III, which bears the heading «Statutory Auditor» and consists of articles 35 to 39;
 - iv) Section IV, which bears the heading «Advisory Council» and consists of articles 40 to 44;
 - v) Section V, which bears the heading «Tariff Council» and consists of articles 45 to 49;
 - Repeal of articles 24, 25 and 39, paragraph 3 of article 50 and paragraphs 4 to 6 of article 55.



- [3] **Decree-Law No. [84/2013](#) of 25 June** (*Introduces the 3rd amendment to the Statutes of Entidade Reguladora dos Serviços Energéticos, with a view to completing the transposition of Directives [2009/72/EC](#) and [2009/73/EC](#), of the European Parliament and of the Council, of 13 July 2009, concerning common rules for the internal market in electricity and natural gas, respectively, and repealing Directives [2003/54/EC](#) and [2003/55/EC](#) of the European Parliament and of the Council, of 26 June 2003*):
- Amendment to articles 1 to 4, 6, 8, 10, 13, 20, 22, 28, 29, 30, 31 to 34, 36, 37, 41, 44, 46, 49 to 55 and 57 to 61;
 - Addition of articles 49-A, 49-B and 55-A;
 - Amendment to the systematic organisation:
 - a) Section I of chapter II is renamed «Generic competences»;
 - b) The heading of article 15 is amended to read «Opinions in the framework of administrative and judicial cooperation»;
 - c) Section VI of chapter II is renamed «Dispute settlement»;
 - d) Chapter IV is renamed «Economic, financial and asset management» and consists of articles 49-A to 52;
 - e) Chapter VI is renamed «Independence, liability and judicial control».
 - Repeal of paragraph 3 of article 21, paragraph 3 of article 37, article 56 and paragraph 3 of article 57.
 - Republication of the Statutes in the annex.
- [4] **Decree-Law No. [57-A/2018](#), of 13 July** (*Amends the Statutes of Entidade Reguladora dos Serviços Energéticos, expanding regulation to the sectors of liquefied petroleum gas in all its categories, petroleum-derived fuels and biofuels*):
- Amendment to articles 1, 2, 3, 8, 9, 10, 16, 19, 26, 28, 33, 41, 42, 43, 46, 47 and 50;
 - Addition of articles 44-A, 44-B, 44-C, 44-D and 44-E;
 - Amendment to the systematic organisation:
 - a) The heading of section V of chapter III is renamed «Fuels Council» and consists of articles 44-A, 44-B, 44-C, 44-D and 44-E;
 - b) Section VI is added to chapter III, bearing the heading «Tariff Council», and consists of articles 45 to 49;
 - Repeal of points c), k), m), t) and u) of paragraph 2 of article 3;
 - Republication of the Statutes in the annex.
- [5] **Decree-Law No. [76/2019](#), of 3 June** (*Amends the legal framework that governs activities related to electricity production, transportation, distribution and marketing and the organization of electricity markets*):
- Amendment to articles 46 and 47;
 - Repeal of points z) and aa) of paragraph 2 of article 3.



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STATUTES OF ENTIDADE REGULADORA DOS SERVIÇOS ENERGÉTICOS (THE ENERGY SERVICES REGULATORY AUTHORITY)

CHAPTER I^[2] General provisions

Article 1^[3]^[4] Nature, purpose and headquarters

- 1 - *Entidade Reguladora dos Serviços Energéticos* (ERSE - the Energy Services Regulatory Authority) shall be a legal person governed by public law, with the nature of an independent administrative body.
- 2 - ERSE shall have administrative and financial autonomy, management autonomy, organisational, operational and technical independence, as well as its own assets, and shall enjoy regulatory, implementing, supervisory, enforcing and sanctioning powers.
- 3 - ERSE shall aim to regulate the sectors of electricity, natural gas and liquefied petroleum gas (LPG) in all its categories, namely bottled, piped or bulk LPG, of petroleum-derived fuels and biofuels, as well as the management of the electric mobility network operations, in compliance with the framework-law of regulatory bodies, sector-specific legislation, provisions in these Statutes and applicable legislation at national, European and international level.
- 4 - ERSE shall have its seat in Lisbon.
- 5 - ERSE's regulation shall apply throughout the national territory, without prejudice to an adjustment to the particular characteristics of the Autonomous Regions of Azores and Madeira, in accordance with applicable laws and regulations.

Article 2^[3]^[4] Legal framework and independence

- 1 - ERSE shall be governed by the framework-law of regulatory bodies, sector-specific legislation, provisions in these Statutes, its rules of procedure, and additionally, as far as its financial and asset management is concerned, by the legal system that applies to corporate public bodies.
- 2 - ERSE shall be independent in the performance of its tasks, and shall not be subject to government oversight or authority, without prejudice to provisions set out in the framework-law of regulatory bodies and to article 58.
- 3 - It shall be incumbent on the Government, under the Constitution and the law, to define broad energy policy guidelines, in particular on issues related to the security of supply, protection of consumer rights, negotiation and conclusion of international agreements in the field of energy, energy efficiency, environmental sustainability and sustainability of regulated sectors, without prejudice to paragraph 1 of article 58.

Article 3^[2]^[3]^[4]^[5]**Tasks**

- 1 - ERSE's regulation shall aim to promote the efficiency and reasonableness of activities of regulated sectors, in objective, transparent, non-discriminatory and competitive terms, by continuously supervising and following such sectors, in line with the objectives of the internal markets and Iberian markets.
- 2 - In the scope of the regulation of the electricity and natural gas sectors, and in the framework of applicable laws and regulations, it shall be incumbent on ERSE to:
- a) Protect the rights and interests of consumers, in particular of economically vulnerable end-user customers, with respect to prices, the way how services are provided and the quality of such provision, by promoting the provision of information, clarification and training;
 - b) Ensure that the conditions are in place so as to enable an economic and financial balance to be achieved by activities of regulated sectors pursued as a public service, where such activities are managed properly and efficiently;
 - c) *[Repealed]*;
 - d) Contribute to the gradual improvement of economic, qualitative, technical and environmental conditions of regulated sectors, in particular by fostering the adoption of practises that encourage energetic efficiency and appropriate quality standards;
 - e) Arrange for studies on electricity and natural gas sectors to be conducted, developing initiatives and establishing the appropriate association or cooperation protocols, without prejudice to its independence and inalienability of its competences;
 - f) Support the establishment and supervise the operation of the switching logistics operator, cooperating with stakeholders of regulated sectors so as to guarantee the creation and development of the referred operator under applicable law;
 - g) Monitor the investment plans of gas and electricity transmission system operators and to present in its annual report an assessment of the referred plans, in particular with regard to their conformity to the EU-wide network development plan;
 - h) Monitor investment in electricity production capacity, with a view to ensuring the security of supply;
 - i) Monitor investment for the constitution of strategic natural gas stocks;
 - j) Ensure conditions, through its regulatory action, for the demand for electricity and natural gas to be efficiently met;
 - k) *[Repealed]*;
 - l) Ensure that interruptible supply contracts and long-term contracts comply with European Union law and policies, while respecting the contractual freedom of stakeholders;
 - m) *[Repealed]*;
 - n) Cooperate with the Agency for the Cooperation of Energy Regulators and with EU energy and financial market regulators, while maintaining transparency and integrity of markets and applying regulations and penalties provided for by law;



- o) Integrate, in the scope of commitments undertaken by Portugal, the activities of regulatory councils or groups, in particular in the framework of the internal electricity and gas market and of agreements of Iberian electricity and gas markets, exercising the powers conferred upon it by such agreements and contributing to the compatibility of data exchange process that takes place thereunder;
 - p) Follow the activity of similar regulatory bodies, as well as international regulatory experiences in the field of energy, and to enter into cooperative relations with such bodies and with relevant energy-related international bodies;
 - q) Foster the creation, in the framework of activities implemented under the preceding point, of operational mechanisms intended to enable an optimal management of the network, promote joint electricity and gas exchanges and the allocation of cross-border capacity, and allow an adequate level of interconnection capacity, including through the establishment of new interconnections, within and beyond the Iberian market, so that effective competition is developed and the security of supply is improved, without discriminating between electricity and gas suppliers in different Member States;
 - r) Coordinate the development of all network codes for electricity and gas transmission system operators and other stakeholders in the respective markets, as well as of rules governing the management of congestion;
 - s) Supervise technical cooperation between the national transmission system manager or operator, EU transmission system managers or operators and third-country transmission system managers or operators;
 - t) *[Repealed]*;
 - u) *[Repealed]*;
 - v) Establish the terms and conditions for the provision of balancing services, which shall be provided in a fair and non-discriminatory manner and be based on objective criteria, as well as of access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management;
 - w) Conduct the certification of the operator of the national transmission system (RTN) and of the operator of the national natural gas transmission system (RNTGN), under the applicable law, with a view to assessing compliance with conditions legally established upon each of them;
 - x) Follow and enforce compliance with conditions for certification of the RNT operator and of the RNTGN operator, under the terms they were granted, and where appropriate under the law, to reassess the referred certification;
 - y) Ensure that the electric mobility network management operations are performed in an efficient and rational manner, in objective, transparent, non-discriminatory and competitive terms, in particular by protecting the rights and interests of users of electric vehicles and by ensuring compliance, by sector agents, with obligations set out in applicable laws and regulations;
 - z) *[Repealed]*;
 - aa) *[Repealed]*;
- 3 - In the scope of the regulation of Sistema Petrolífero Nacional (the National Petroleum System - SPN), namely the LPG, petroleum-derived fuel and biofuel sectors, it shall be incumbent on ERSE to:
- a) Regulate and supervise the LPG, petroleum-derived fuel and biofuel sectors;



- b) Regulate the conditions for trade relations between agents and clients, the quality of service conditions, as well as conditions and tariffs for access to storage, distribution and marketing infrastructures;
 - c) Monitor the market and logistics operation of crude oil and petroleum products;
 - d) Monitor the SPN market, namely by following the country's supply conditions for crude oil and petroleum products;
 - e) Monitor compliance with obligations related to piped LPG, by fostering actions aimed at preventing congestion, ensuring third-party access, the guarantee of public service and security;
 - f) Follow and monitor the development and use of refining, storage, transportation, distribution and marketing capabilities of petroleum products;
 - g) Promote consumer rights and interests, in particular as regards the way how services are provided and the quality of such provision, by fostering the provision of information;
 - h) Deliver opinions with regard to licensing procedures that apply to large oil companies, in particular with regard to refining, transport and storage licenses, as well as licenses for roadside service stations, storage facilities for petroleum products and biofuels and storage and distribution facilities for piped LPG;
 - i) Conduct SPN-related audits, in coordination with enforcement bodies;
 - j) Have access to records of SPN stakeholders, access being guaranteed by DGEG (Direcção-Geral de Energia e Geologia - the Directorate-General for Energy and Geology), and to use such information towards the guarantee of the proper operation of the market and of the system;
 - k) Set up an up-to-date archive that allows characteristics and perspectives for the development of SPN to be known.
- 4 - It will also be ERSE's responsibility to:
- a) Collaborate with Assembleia da República (the Portuguese Parliament) and the Government in drawing up policies and statutory instruments related to the energy sector that are integrated in the scope of its regulatory powers, in particular by delivering opinions on the economic impact of legislation to be approved on sectors regulated by ERSE;
 - b) Disseminate the regulatory framework, its competences and initiatives, as well as obligations of operators and consumer rights;
 - c) Monitor compliance, by agents of regulated sectors, with public service obligations and other obligations laid down in laws and regulations that govern regulated sectors;
 - d) Monitor compliance with safeguard measures in the event of an energy crisis, as defined in [Decree-Law No. 114/2001](#), of 7 April, as it stands, and to collaborate, in the scope of its competences, with bodies required to take action in the event of threats to the security of persons, apparatus or installations or to the integrity of the network;
 - e) Promote and guarantee competition between market stakeholders, as regulatory authority and pursuant to applicable laws, by coordinating its action with Autoridade da Concorrência (the Competition Authority) and cooperating therewith to ensure that competition law is checked and applied;
 - f) Foster the settlement of disputes that arise between stakeholders of regulated markets, within the framework of competences conferred thereupon by applicable laws and regulations;



- g) Foster arbitration between operators and consumers, under applicable laws, with a view to settling disputes.

5 - Within the scope of procedures set out in the law for the certification of the RNT operator and RNTGN operator, where the referred operators are imposed rules applicable to an independent transmission operator, it shall be incumbent upon ERSE to:

- a) Impose sanctions provided for in the energy sector sanctioning system for discriminatory behaviour to the advantage of a vertically integrated undertaking;
- b) Monitor communications between the transmission system operator and the vertically integrated undertaking, in order to guarantee compliance of the transmission system operator with obligations upon it;
- c) Act as a dispute settlement authority between the vertically integrated undertaking and the transmission system operator in respect of complaints submitted by any interested party;
- d) Monitor commercial and financial relations, including loans and provision of collateral, between the vertically integrated undertaking and the transmission system operator;
- e) Approve all commercial and financial agreements between the vertically integrated undertaking and the transmission system operator on the condition that they comply with market conditions;
- f) Approve the compliance programme and monitor the implementation thereof;
- g) Where notified by the compliance officer about the proposed decisions on the investment plan or on individual investments in the network, to request justification from the vertically integrated undertaking, such justification including, in particular, evidence to the end that no discriminatory behaviour to the advantage of the vertically integrated undertaking has occurred;
- h) Carry out inspections, including unannounced ones, on the premises of the vertically integrated undertaking and of the transmission system operator;
- i) Assign all or specific tasks of the transmission system operator to an independent system operator under the law, in case of a persistent breach by the transmission system operator of obligations upon it under the law, in particular in case of repeated discriminatory behaviour to the benefit of the vertically integrated undertaking.

Article 4^[2]^[3]

Principle of speciality

1 - Without prejudice to the respect for the principle of legality within the field of public management, and save as otherwise provided, ERSE's legal capacity shall cover the performance of all legal acts, the enjoyment of all rights and the compliance with all obligations as required to pursue its tasks.

2 - ERSE shall not perform activities or use its powers in matters falling outside its tasks, or focus its resources on purposes other than those to which it is subject.

3 - ERSE shall not ensure compliance with obligations falling on other legal persons, either public or private, to third parties.

4 - ERSE shall have legal capacity to sue and to be sued.

Article 5^[2]**Promotion and protection of competition**

- 1 - It shall be incumbent on ERSE to foster and guarantee that competition rules are complied with in sectors under its regulatory powers, without prejudice to powers conferred on *Autoridade da Concorrência*.
- 2 - It shall be incumbent on ERSE to report to *Autoridade da Concorrência* any anti-competitive practises that come to its notice and to collaborate therewith with regard to the corresponding sanctioning procedure.

Article 6^{[2][3]}**Obligations of operators**

- 1 - Operators whose activities are subject to ERSE's regulation, under the applicable laws and regulations, shall be required to provide full cooperation to ERSE as requested for the proper performance of its duties, by supplying information and documents that are required.
- 2 - In the case of omission in applicable laws and regulations, information and documents referred to in the preceding paragraph shall be provided to ERSE within at the most 30 days from the date on which the request was made, save where a shorter period is established by ERSE on substantiated grounds of urgency, in order to ensure that its cooperation duties towards *Assembleia da República* or the Government are fulfilled, or that its obligations towards EU institutions and in the scope of Iberian markets are met.
- 3 - Operators referred to in paragraph 1 shall be required, under legislation that lays down the foundations for regulated sectors and supplementing acts, to comply with regulations approved by ERSE.

Article 7^[2]**Dissemination of information**

- 1 - ERSE shall be entitled to disseminate information collected in the scope of its regulatory activities to operators whose activities are subject to regulation, without prejudice to the respect for information of the kind covered by commercial and industrial secrecy or relating to issues of intellectual property, as well as to applicable rules on the protection of personal data.
- 2 - The information referred to in the final part of the preceding paragraph can be shared with other EU regulatory authorities, including financial supervisory bodies and competition authorities, provided that such authorities commit themselves to keep shared information confidential.

Article 7-A^[2]**Market operation reports**

- 1 - ERSE shall draw up annual reports on its regulatory activities, analysing the degree of effective competition in markets, and indicating the measures it has taken or intends to take, with the aim of improving market effectiveness and efficiency.
- 2 - ERSE shall publish the reports referred in the preceding paragraph, in particular on its website, and inform the member of the Government in charge of the energy area, *Assembleia da República* and the European Commission accordingly.



3 - ERSE shall also report on an annual basis its activity and the fulfilment of its duties to *Assembleia da República*, the Government, the European Commission and the Agency for the Cooperation of Energy Regulators, and such reports shall cover the steps taken and the results obtained.

CHAPTER II Competences of ERSE

SECTION I^{[2][3]} Generic competences

Article 8^{[2][3][4]} Competences

1 - ERSE shall be entrusted with the competences required to pursue its purpose and carry out its tasks established in these Statutes and in legislation governing *Sistema Eléctrico Nacional* (SEN - the national electric system), *Sistema Nacional de Gás Natural* (SNGN - the national natural gas system) and *Sistema Petrolífero Nacional* (SPN - the national petroleum system), in the scope of the LPG, petroleum-derived fuel and biofuel sectors.

2 - ERSE's competences with a view to performing its tasks, under the preceding paragraph, shall be of an implementing, regulatory and supervisory, advisory, sanctioning and arbitrating nature.

SECTION II^[2] Implementing competences

Article 9^{[2][4]} ERSE regulations

1 - ERSE shall have the power to draw up and approve regulations as required for the performance of its tasks, that are intended to implement legislation governing the organization and operation of sectors that are subject to regulation for which this Authority is responsible.

2 - In the framework of its tasks and pursuant to enabling standards laid down in legislation referred to in the preceding paragraph, ERSE shall have the power, in particular, to draw up and approve the following regulations:

- a) In the scope of *Sistema Eléctrico Nacional* (SEN):
 - i) Regulation on Access to Networks and Interconnections;
 - ii) Regulation on Trade Relations;
 - iii) Tariff Regulation;
 - iv) Regulation on Quality of Service;
 - v) Regulation on Network Operations;
- b) In the scope of *Sistema Nacional de Gás Natural* (SNGN):
 - i) Regulation on Access to Networks, Infrastructures and Interconnections;
 - ii) Regulation on Trade Relations;



- iii) Tariff Regulation;
- iv) Regulation on Quality of Service;
- v) Regulation on Infrastructure Operation.

3 - ERSE's regulations may refer specific matters to supporting documents and procedure handbooks, the drafting of which, where justified by the scope and external relevance of issues to be regulated and with due regard to the urgency thereof, shall adopt a simplified procedure similar to the one taken for the approval of the respective regulation.

4 - ERSE's regulations may allow stakeholders of regulated sectors to establish self-regulation procedures, in accordance with ERSE's regulations, namely rules of procedure setting out their principles, so that they may be applied in an efficient and appropriate manner, in particular as regards matters which confer to agents and consumers improved conditions for the provision of the regulated service.

Article 10^[2]^[3]^[4]

Implementing procedure

1 - Prior to the approval or amendment of any regulation the issue of which falls under ERSE's responsibility, and without prejudice to the consultation of the Advisory Council, the Tariff Council or the Fuels Council, according to the fields of competence of each of these Councils, ERSE shall report the ongoing procedure to the member of the Government in charge of the energy area and to DGEG, as well as to concessionary and licensed bodies, suppliers and other agents of regulated sectors registered for this purpose with ERSE, according to the matter concerned, to general interest consumer associations and to the general public, providing them with access to the respective texts and making the latter available at its website.

2 - For the purpose of the preceding paragraph, a period of 30 days shall be set for interested parties to submit their comments and make suggestions.

3 - Bodies provided for in paragraph 1 may be provided with access to suggestions that have been submitted, save where the respective author requests that its identification be kept secret, clearly indicating that the authorship of its comment or suggestion must not be disclosed.

4 - The preliminary report of regulations shall substantiate the decisions taken, and ERSE shall be entitled to include the detailed reasons in a specific additional document, with a necessary reference to any critics or suggestions that have been made to the draft.

5 - In exceptional situations, duly justified in accordance with the preceding paragraph, in particular in case of urgent need for the purpose of compliance with legal deadlines or obligations stemming from the internal market, including regional markets, the deadline set out in paragraph 2 may be reduced up to eight consecutive days, in which case only bodies directly concerned by issues to be regulated shall be consulted.

6 - ERSE's regulations laying down standards with external effectiveness shall be published in Series II of *Diário da República* (the Official Gazette) and made available at its website.

**SECTION III^[2]****Regulatory and supervisory competences****Article 11^[2]****Regulatory and supervisory powers**

- 1 - ERSE shall enjoy regulatory powers, and in the exercise thereof it shall be entitled to:
 - a) Establish tariffs, in the framework of tariff regulations provided for in the preceding section, and to enforce their application;
 - b) Define cost accounting rules that strictly observe the principle of accounting separation of regulated activities.
- 2 - ERSE shall enjoy supervisory powers, and in the exercise thereof it shall be entitled to:
 - a) Implement laws and other applicable standards that govern the organisation and operation of sectors covered by its regulation, in all matters that fall outside the competence of other bodies, by performing binding acts, which shall only be subject to challenge under the general terms of the law;
 - b) Issue orders, instructions and recommendations, in the framework of the applicable law and regulations, as well as to grant authorizations and approvals;
 - c) Enforce laws and regulations and other standards that apply in the scope of its tasks, in particular regulations provided for in the preceding section;
 - d) Request from bodies whose activities are subject to its regulation all information required for the exercise of its tasks and competences.

Article 12^[2]**Setting prices and tariffs of regulated activities**

- 1 - It shall be incumbent on ERSE, under the law and tariff regulations referred to in the preceding section, to establish and approve the amounts of regulated tariffs and prices.
- 2 - ERSE's decisions on tariffs and prices shall be published in Series II of Diário da República and disseminated through ERSE's website and other means deemed to be appropriate.

Article 13^{[2][3]}**Enforcement activity**

- 1 - ERSE's employees, authorised representatives as well as qualified and duly empowered persons or bodies who, on behalf of ERSE, perform an enforcement role and when acting within the scope of their functions, shall be entitled to:
 - a) Identify bodies that break laws and regulations which ERSE is required to enforce, for subsequent action;
 - b) Obtain assistance from administrative and police authorities, where deemed to be necessary for the performance of their duties;



- c) Access any premises, land and means of transport and services of bodies subject to ERSE's regulation and bodies working in collaboration therewith, as well as the respective books, records and information technology and communication systems;
- d) Obtain in any form copies of or extracts from documents referred to in the preceding point;
- e) Ask any legal representative, employee or collaborator of bodies subject to ERSE's regulation and bodies working in collaboration therewith for explanations on facts or documents relating to the subject-matter and purpose of the inspection or audit and to record the answers.

2 - Persons referred to in the preceding paragraph who perform the duties that are set out therein shall be assigned an identification card, approved and signed by the Chair of the Board of Directors, or, in the event of the Chair's absence or his being prevented from attending, jointly signed by two members of the Board of Directors.

Article 14^[2]

Investigations and audits

ERSE shall be entitled, upon its own initiative or upon a request from the member of the Government in charge of the energy area, to determine that investigations, enquiries or audits to regulated bodies are conducted, insofar as the referred measures concern matters that fall within the scope of ERSE's regulated activities and tasks.

SECTION IV^[2]

Advisory competences

Article 15^{[2][3]}

Opinions in the framework of administrative and judicial cooperation

1 - Within the framework of its tasks, and without prejudice to consultations or opinions provided for in the law, ERSE shall be required to provide support, in particular through the issue of opinions, to other bodies of the public administration, especially to Autoridade da Concorrência, Direção-Geral de Energia e Geologia, Direção-Geral do Consumidor (the Consumer Directorate) and Comissão do Mercado dos Valores Mobiliários (the Securities Market Board).

2 - Within the framework of its tasks, ERSE shall issue all opinions that are requested by courts, in particular where matters of a regulatory nature are concerned.

Article 16^{[2][4]}

Provision of advice and opinion by ERSE

It shall be incumbent on ERSE, at the request of Assembleia da República or the Government, to give its opinion on legislative initiatives or other initiatives relating to its tasks in the scope of regulated sectors.

Article 17^[2]

Nature of ERSE's opinions

Except as expressly provided otherwise, opinions provided for in the law which ERSE is required to issue shall not be deemed to be binding.

Article 18^[2]**Time limit for the issue of opinions**

Save where the law or a regulation provides for a different deadline, ERSE's opinions shall be issued within 30 days from the date on which they were requested.

SECTION V^[2]**Sanctioning competences**Article 19^{[2][4]}**Sanctioning powers**

1 - ERSE's sanctioning powers shall apply to all SEN, SNGN and SPN stakeholders, in the scope of the LPG, petroleum-derived fuel and biofuel sectors, whose activities are subject to ERSE's regulation, under legislation that lays down the foundations of sectors, supplementing acts, these Statutes and regulations identified in paragraph 2 of article 9 or regulations whose approval, application or supervision are incumbent upon ERSE.

2 - The sanctioning system of the energy sector shall be the subject of a separate statutory instrument.

SECTION VI^{[2][3]}**Dispute settlement**Article 20^{[2][3]}**Dispute settlement**

1 - In the exercise of its competences related to the settlement of disputes between operators subject to ERSE's regulation, or between operators and their customers or third parties, it shall be incumbent on ERSE to:

- a) Undertake conciliation and mediation actions or promote arbitration where provided for in the law or upon request from interested parties;
- b) Take note of customer complaints and put in place the necessary measures, under the law.

2 - In the performance of its tasks, ERSE shall be provided with a one-stop shop intended for customer support, provision of information, and processing and handling of complaints.

3 - ERSE shall ensure that procedures adopted under paragraph 1 are decided no later than two months after the date on which the request is submitted, an extension being allowed for a period of the same duration, where additional information is required by ERSE, or for a longer period, subject to agreement by the complainant.

Article 21^{[2][3]}**Inspection of complaint records**

1 - It shall be incumbent on ERSE to inspect records of consumer complaints presented to operators subject to its regulation, namely to suppliers.

2 - For the purpose of the preceding paragraph, operators subject to ERSE's regulation shall be required to keep appropriate records of complaints received.



3 - [Repealed].

4 - ERSE shall be entitled to order the investigation of complaints submitted against bodies referred to in paragraph 1, insofar as such complaints fall within the scope of its competences.

5 - After handling complaints, ERSE shall be entitled to order or recommend, according to the case, to operators subject to its regulation the measures required to achieve fair compensation of consumer rights.

Article 22^{[2][3]}

Arbitration

1 - It shall be incumbent on ERSE to foster arbitration mechanisms for the settlement of disputes arising from contracts between stakeholders of regulated sectors and consumers, in particular between the latter and energy suppliers, ensuring that the resources to carry them out are available to consumers.

2 - Arbitration referred to in the preceding paragraph shall have the nature provided for in article 15 of [Law No. 23/96](#), of 23 July, and shall be additionally governed by provisions laid down in the Voluntary Arbitration Law, provided for in [Law No. 63/2011](#), of 14 December.

Article 23^[2]

Fostering of and processing conditions for arbitration

1 - Regardless of the legal nature of arbitration provided for in the preceding article, it shall be incumbent on ERSE to create the conditions in which consumers are able, through arbitration, to settle their disputes with stakeholders of regulated sectors, in particular with suppliers, under simple, and streamlined procedural terms that tend to be free of charge.

2 - For the purpose of the preceding paragraph, ERSE shall be entitled to take the initiative, in collaboration with other bodies, of promoting the establishment of new institutionalized arbitration centres or concluding protocols with existing institutionalized arbitration centres, in which case ERSE shall be required to ensure that stakeholders of regulated sectors join the referred arbitration centres.

Article 24^[2]

[Repealed]

Article 25^[2]

[Repealed]

CHAPTER III^[2]

Organization of ERSE

SECTION I^[2]

Bodies

Article 26^[4]

ERSE bodies

ERSE bodies shall be as follows:

- a) The Board of Directors;



- b) The Statutory Auditor;
- c) The Advisory Council;
- d) The Tariff Council;
- e) The Fuels Council.

SECTION II^[2] Board of Directors

Article 27^[2] Role

The Board of Directors shall be the collegiate body responsible for defining, guiding, conducting and following ERSE's activities.

Article 28^{[2][3][4]} Composition, appointment and status

- 1 - The Board of Directors shall comprise a Chair and two other Board members.
- 2 - The Chair and other members of the Board of Directors shall have appropriate qualifications and acknowledged independence, as well as technical and professional capacity in regulated areas.
- 3 - The Chair and other members of the Board of Directors shall be appointed by resolution of the Council of Ministers, on a proposal from the member of the Government in charge of the energy area, which shall attach an opinion from Comissão de Recrutamento e Seleção da Administração Pública (the Public Administration Recruitment and Selection Commission) on whether the concerned person's profile fits the role to be performed, as well as on whether applicable incompatibility and impediment standards are met.
- 4 - The appointment provided for in the preceding paragraph shall be preceded by a hearing of the relevant commission of Assembleia da República, upon request of the Government, which shall attach the opinion provided for in the preceding paragraph from Comissão de Recrutamento e Seleção da Administração Pública.
- 5 - The term of office of members of the Board of Directors shall be six years, which shall not be renewable, without prejudice to the right of former members of the Board of Directors to be appointed to hold positions in bodies of ERSE six years after the expiry of their previous term of office.
- 6 - In case of a joint appointment of two or more members of the Board of Directors, the expiry of their terms of office shall not coincide, differing by at least six months, through the restriction of one or more of the terms of office, where appropriate.
- 7 - The members of the Board of Directors shall be entitled to an appropriate remuneration, intended to guarantee that their mission is fulfilled, which shall be determined by the remuneration committee, whose composition, competences and operation shall be governed by law.
- 8 - The use by members of the Board of Directors of credit cards and other means of payment, vehicles, communications, bonuses, wage supplements and social benefits shall be governed by [Decree-Law No. 71/2007](#), of 27 March.

Article 29^{[2][3]}**Incompatibilities and impediments**

1 - Any person who is, or has been for the past two years, a member of administrative or management bodies of commercial companies or other legal persons that are stakeholders of sectors regulated by ERSE, or who holds or has held during the same period a management position within such bodies, or who has performed any studies and other work for companies of regulated sectors, albeit in an independent manner, on regulated sectors, may not be appointed for the Board of Directors.

2 - During their term of office, members of the Board of Directors shall not:

- a) Perform any other public or private duties, except for teaching or research duties, provided they are unpaid, on a part-time basis and subject to the approval by deliberation of the Board of Directors;
- b) Maintain any employment relationship, service agreement or any contractual relationship, either direct or indirect, for the provision of an activity for the benefit of stakeholders of sectors regulated by ERSE, with bodies with whom the latter have a control or group relationship, according to article 21 of Código dos Valores Mobiliários (the Securities Market Code), or with bodies with whom the latter also have a control or group relationship, and shall not hold any economic or financial interest in the referred companies.

3 - The members of the Board of Directors shall be subject to incompatibilities and impediments that apply to senior positions in the civil service.

4 - Upon expiry of their term of office, members of the Board of Directors shall be prevented, for a period of two years, from establishing any employment relationship, service agreement or any contractual relationship, either direct or indirect, for the provision of an activity for the benefit of stakeholders of sectors regulated by ERSE, with bodies with whom the latter have a control or group relationship, according to article 21 of Código dos Valores Mobiliários, or with bodies with whom the latter also have a control or group relationship.

5 - During the impediment period provided for in the preceding paragraph, the referred members of the Board of Directors shall be entitled to a compensation amounting to half their monthly salary at the date of expiry of the term of office.

6 - The compensation provided for in the preceding paragraph shall not be granted or shall cease in the following situations:

- a) Where and for as long as the member of the Board of Directors engages in any other gainful task or activity;
- b) Where the member of the Board of Directors is entitled to a retirement pension, and opts for this solution; or
- c) Where the term of office of the member of the Board of Directors ends for any reason other than the expiry thereof.

Article 30^[3]**Independence of members**

1 - Without prejudice to paragraph 2 of article 2, members of the Board of Directors shall be independent in the performance of their duties, and shall not be subject to any specific instructions or guidelines.



2 - The members of the Board of Directors shall not be removed or dismissed before the end of their term of office, save in the case of:

- a) Permanent physical or mental impairment or incapacity whose duration is expected to extend beyond the date of expiry of the term of office;
- b) Supervening incompatibility;
- c) Dissolution of the Board of Directors or dismissal of its members under paragraphs 3 and 4;
- d) Conviction by final judgement for an intentional crime that calls the professional conduct of Board members into question;
- e) Enforcement of the penalty of imprisonment;
- f) Winding-up of ERSE, in accordance with the terms and conditions set forth in the framework-law of regulatory bodies.

3 - The dissolution of the Board of Directors or the dismissal of any of its members shall only take place by means of a duly justified resolution of the Council of Ministers.

4 - For the purpose of the preceding paragraph, duly justified grounds shall be deemed to exist where a serious offence, bearing individual or joint liability, is detected further to a duly supported investigation, conducted by a body independent of the Government, which shall be preceded by an opinion from ERSE's Advisory Council and the hearing of the relevant parliamentary committee.

5 - For the purpose of the preceding paragraph, serious offence shall correspond to:

- a) Undue failure to meet ERSE's objectives for reasons for which the Board of Directors or the member of the Board of Directors to be dismissed is responsible;
- b) Excessive gap between the approved budget and its implementation, an excessive gap being deemed to exist where incurred expenditure unjustifiably exceeds the budget by 15%;
- c) Serious material irregularities in the operation of the body, which shall involve the commission of serious or repeated breaches of the law or of these Statutes;
- d) Serious or repeated failure to comply with laws or regulations that apply to ERSE, as well as of ERSE guidelines;
- e) Failure to meet the duty to perform the respective role on an exclusive basis or serious or repeated infringement of the requirement for confidentiality.

6 - For the purpose of point e) of the preceding paragraph, the requirement for confidentiality shall not concern issues related to tariff regulation, and the regulation of trade relations and of access to networks and other regulated infrastructures, issues for which a duty of transparency exists with a view to ensuring the dissemination of information required to clarify consumers, network users and other economic stakeholders of regulated sectors.

7 - Where the term of office ends on expiry or resignation, the members of the Board of Directors shall continue in office until such time as they are effectively replaced.

Article 30-A^[2]

Commitment

1 - ERSE shall be legally committed by the signature of the Chair of the Board of Directors or, should the Chair be absent or unavailable, by the joint signatures of two members of the Board of Directors,



and also by the signature of one or more authorised representatives specially appointed by the Board of Directors, in the restricted scope of powers conferred thereupon.

2 - Without prejudice to the preceding paragraph, ERSE shall also be legally committed, in the performance of specific acts, by the signature of any member of the Board of Directors, within the limits established in a deliberation of the Board of Directors issued for the purpose.

3 - Day-to-day matters shall merely require the signature of one of the members of the Board of Directors.

Article 31^{[2][3]}

Competence

1 - The Board of Directors shall be responsible for defining, guiding, and following ERSE's activities and services, as well as for representing ERSE and ensuring the performance of activities.

2 - The Board of Directors shall in particular:

- a) Represent ERSE and run its operation;
- b) Define ERSE's broad direction, as well as organize, follow and supervise the operation of its services and the performance of its activities;
- c) Approve external regulations, provided for in these Statutes and in decree-laws that lay down the foundations for regulated sectors and additional statutory instruments, required for the performance of ERSE's tasks and competences;
- d) Take the decisions provided for in these Statutes and in legislation referred to in the preceding point;
- e) Perform all acts within ERSE's scope of tasks and competences required for the pursue of its objectives and for the enforcement of laws and regulations that apply to regulated sectors;
- f) Approve rules of procedure required for the performance of its activities;
- g) Define ERSE's internal organisation and charts of the respective staff, undertake the recruitment thereof, approve standards and rules of procedure for staff, pay and carrier systems, performance assessment, social protection and work organisation and discipline;
- h) Exercise staff direction, management and discipline powers;
- i) Draw up annual and multiannual activity plans, ensuring the respective implementation, as well as activity reports and accounts;
- j) Draw up the annual budget and respective multiannual plan and ensure the respective implementation;
- k) Prepare the management accounts;
- l) Draw up the social balance sheet, under applicable legislation;
- m) Prepare plans and reports to be submitted every year to Assembleia da República and to the Government and ensure the respective implementation;
- n) Follow and assess on a systematic basis the activities carried out, by holding the different services accountable for the use of means made available to them and for results achieved;



- o) Ensure the preparation of opinions, studies and information requested to ERSE in the scope of its tasks and competences;
- p) Appoint ERSE's representatives to other bodies or institutions;
- q) Appoint authorised representatives in and out of court, with the power to appoint substitutes;
- r) Appoint a secretary, who shall be responsible for certifying acts and deliberations;
- s) Collect and manage revenues and authorize expenses;
- t) Manage ERSE's assets;
- u) Accept donations, inheritances or legacies;
- v) Perform all other day-to-day acts necessary for ERSE's proper operation;
- w) Take decisions in the scope of breach proceedings brought in accordance with the sanctioning system of the energy sector, including decisions related to the application of fines and additional sanctions;
- x) Exercise all other powers provided for in the law and in these Statutes which have not been conferred on any other body of ERSE.

Article 32^{[2][3]}

Operation

- 1 - The Board of Directors shall hold regular meetings once a week, and special meetings shall be held where convened by the Chair, on his or her initiative or at the request of any other member.
- 2 - The Board of Directors shall take deliberations in the presence of two of its members, one of which must be the Chair or his or her legal substitute.
- 3 - The Board of Directors shall be entitled to delegate competences on any of its members.
- 4 - Abstention from voting shall not be allowed.
- 5 - Minutes of meetings shall be approved and signed by all members present.
- 6 - Members present shall not refuse to sign minutes of meetings, even where they do not agree with the contents of deliberations taken therein, in which case members concerned shall enter in the minutes that their vote was out of line with the deliberation.

Article 33^{[2][3][4]}

Competence of the Chair

- 1 - It shall be incumbent on the Chair to coordinate the activity of the Board of Directors, in particular to:
 - a) Convene its meetings and set the respective agenda;
 - b) Chair meetings, guide the work and ensure compliance with deliberations of the Board of Directors;
 - c) Represent ERSE in and out of court;
 - d) Secure ERSE's relations with Assembleia da República, the Government and other public or private bodies;
 - e) Request opinions from the Statutory Auditor, the Advisory Council and the Tariff Council;



f) Exercise the tasks delegated by the Board of Directors.

2 - The Chair shall be entitled to delegate the performance of part of his or her tasks to other members of the Board of Directors.

3 - In the event of absence or impediment, the Chair shall be replaced by the member he/she appoints for the purpose, and in case of absence or impediment of the latter or where no such appointment is made, by the longest serving member, or, in the event of equal seniority, by the eldest member.

4 - Without prejudice to Código do Procedimento Administrativo (the Administrative Procedure Code), the Chair or his/her legal substitute, shall be entitled to use his/her veto to oppose deliberations deemed to be against the law, these Statutes and regulations.

Article 34^{[2][3]}

Liability of members

1 - Members of the Board of Directors shall be jointly liable for acts performed in the exercise of their tasks.

2 - Members shall be relieved of liability where they attended the meeting where the deliberation was taken but voted against it, in a statement entered in the respective minutes, as well as where they were not present at the meeting but declared their disagreement in writing, such statement having also been entered in the minutes.

SECTION III^[2]

Statutory Auditor

Article 35^[2]

Role

The Statutory Auditor shall be the body of ERSE responsible for monitoring the legality and merit of ERSE's financial and asset management, as well as for advising the Board of Directors in these areas.

Article 36^[3]

Appointment

1 - The Statutory Auditor shall be a chartered accountant or an audit firm, and shall be appointed by order of members of the Government in charge of the finance and energy areas.

2 - Point b) of paragraph 2 of article 29 shall apply to the Statutory Auditor, who shall also not be allowed to maintain an employment relationship with the State.

Article 37^[3]

Term of office and status

1 - The term of office of the Statutory Auditor shall be four years, which shall not be renewable, without prejudice to the right of a former Statutory Auditor to be appointed to hold positions in bodies of ERSE four years after the expiry of the previous term of office.

2 - Where the term of office ends on expiry or resignation, the Statutory Auditor shall continue in office until such time as he/she is effectively replaced or an order for the purpose of termination of office is issued by members of the Government in charge of the finance and energy areas.



3 - [Repealed].

Article 38^[2]

Competences

1 - It shall be incumbent on the Statutory Auditor to:

- a) Follow and monitor compliance with applicable laws and regulations on ERSE's financial and asset management, as well as ERSE's budget implementation and economic, financial and asset situation;
- b) Give his or her opinion on the activity plan, the annual budget and the report and accounts prepared by the Board of Directors;
- c) Regularly verify ERSE's accounts and check whether their preparation complies with accounting standards;
- d) Give his or her prior opinion on the purchase, rent, sale and encumbrance of immovable property;
- e) Give his or her prior opinion on the acceptance of donations, inheritances or legacies;
- f) Give his or her prior opinion on whether ERSE should to enter into loan agreements;
- g) Maintain the Board of Directors informed about the result of his or her monitoring action, by drawing up reports, including an overall annual report;
- h) Assess all other issues submitted by the Board of Directors.

2 - Opinions referred to in the preceding paragraph shall be delivered within 15 days from the reception of relevant documents.

3 - In order to perform his or her tasks, the Statutory Auditor shall be entitled to:

- a) Obtain from the Board of Directors all information and clarifications deemed to be necessary;
- b) Be given access to all services and documents of ERSE, requesting the presence of persons in charge for such services and documents and seeking clarifications deemed to be necessary;
- c) Take or propose any steps deemed to be indispensable.

Article 39^[2]

[Repealed]

SECTION IV^[2]

Advisory Council

Article 40^[2]

Role

The Advisory Council shall provide a forum for consultation on the definition of the ERSE's broad lines of action and deliberations taken by the Board of Directors.

Article 41^{[2][3][4]}

Composition and appointment

1 - The composition of the Advisory Council shall be as follows:



- a) A person of recognized standing and independence to be appointed by order of the member of the Government in charge of the energy area, who shall chair the meetings;
- b) A representative of the member of the Government in charge of the finance area;
- c) A representative of the member of the Government in charge of the environment area;
- d) A representative of the member of the Government in charge of the energy area;
- e) A representative of Associação Nacional de Municípios Portugueses (the National Association of Portuguese Municipalities);
- f) A representative of DGEG;
- g) A representative of Direção-Geral do Consumidor;
- h) A representative of Autoridade da Concorrência;
- i) A representative of Agência Portuguesa do Ambiente, I. P. (the Portuguese Environment Agency);
- j) Three representatives of general interest consumer associations, under [Law No. 24/96](#), of 31 July, as amended by [Law No. 85/98](#), of 16 December, and by [Decree-Law No. 67/2003](#), of 8 April;
- k) A representative of bodies licensed for ordinary status production;
- l) A representative of Portuguese associations of producers of renewable electricity;
- m) A representative of the concessionary of Rede Nacional de Transporte de Eletricidade (RNT - the national electricity transmission grid);
- n) A representative of the concessionary of Rede Nacional de Distribuição de Eletricidade (RND - the national electricity distribution grid);
- o) A representative of companies holding concession contracts for the distribution of low-voltage (LV) electricity;
- p) A representative of the electricity and natural gas switching logistics operator;
- q) A representative of the electricity last resort supplier who operates in that capacity throughout the mainland;
- r) A representative of electricity suppliers subject to free trade;
- s) A representative of associations whose members are consumers of medium-voltage (MV), high-voltage (HV) and extra high voltage (EHV) electricity;
- t) A representative of the concessionary of Rede Nacional de Transporte de Gás Natural (RNTGN - the national natural gas transmission network);
- u) A representative of companies holding concession contracts for the reception, storage and regasification of liquefied natural gas (LNG);
- v) A representative of companies holding concession contracts for the distribution of natural gas at regional level;
- w) A representative of bodies licensed for distribution of natural gas as a public service;
- x) A representative of natural gas last resort suppliers;
- y) A representative of natural gas suppliers subject to free trade;



z) A representative of associations whose members are natural gas consumers consuming more than 10 000 m³ per year.

2 - The Advisory Council shall also include:

- a) A representative of the Regional Government of the Azores;
- b) A representative of the Regional Government of Madeira;
- c) A representative of consumers of the Autonomous Region of Azores;
- d) A representative of consumers of the Autonomous Region of Madeira;
- e) A representative of electricity sector companies of the Autonomous Region of Azores;
- f) A representative of electricity sector companies of the Autonomous Region of Madeira.

3 - In the scope and strictly for the purposes of competences defined in points a) to c) of paragraph 1 of article 43, the Advisory Council shall also include the members of the Fuels Council provided for in points b) to k) and p) of paragraph 1 of article 44-B and a common representative of members provided for in point r) of paragraph 1 of article 44-B.

4 - Where a control or group relationship is found to exist between any of the represented bodies referred to in paragraphs 1 and 2, according to article 21 of Código dos Valores Mobiliários, or, even where no such relationship exists, there are common shareholders with whom such bodies establish the referred relationships, the referred bodies shall not, taken together, appoint more than two representatives per section of the Advisory Council.

5 - ERSE shall be entitled to lay down regulations for the appointment, by bodies referred to in paragraphs 1 and 2, of the respective representatives, as well as their characteristics, and in any event, the following rules shall be observed:

- a) Representatives of bodies who operate subject to a public service concession must be indicated in the order set out in paragraphs 1 and 2, until the upper limit provided for in the preceding paragraph is reached;
- b) Members of the Advisory Council shall be natural persons and represent bodies provided for in paragraphs 1 and 2 directly.

6 - Where the number of representatives of SEN and SNGN stakeholders, except for consumers, is found to exceed the number of consumer representatives, bodies referred to in points j), s) and z) of paragraph 1 and in points c) and d) of paragraph 2 shall be entitled to jointly indicate as many representatives as are necessary to ensure that the number of consumer representatives matches, in the respective section, the number of representatives of remaining SEN and SNGN stakeholders.

7 - The appointment of members of the Advisory Council shall be incumbent on represented bodies, without prejudice to the following paragraph, and shall be made between the 30 days that precede and the 30 days that follow the end of the term of office of retiring members.

8 - In the cases provided for in points j), k), l), o), r), s), u), v), w), x), y) and z) of paragraph 1 and in points c) to f) of paragraph 2, the appointment of representatives shall take place in a meeting of interested parties convened by the Chair of the ERSE's Board of Directors by means of a notice published at ERSE's website and in a nationwide newspaper, at least 15 days ahead of the date of the meeting.

9 - The term of office of the members of the Advisory Council shall be three years, which shall be renewable, without prejudice to their being replaced at any time by appointing bodies.



10 - The representative of the electricity and natural gas switching logistics operator shall integrate the Advisory Council as from the date the respective represented body starts operating, under applicable legislation.

Article 42^{[2][4]}

Organization

- 1 - The Advisory Council comprises two sections:
 - a) The section of the electric sector, which shall include representatives mentioned in points a) to s) of paragraph 1 and in paragraph 2 of the preceding article; and
 - b) The section of the natural gas sector, which shall include representatives mentioned in points a) to j), p) and t) to z) of paragraph 1 of the preceding article.
- 2 - Plenary meetings as well as meetings of sections of the Advisory Council shall be chaired by the representative of the member of the Government in charge of the energy area.

Article 43^{[2][3][4]}

Competence

- 1 - It shall be incumbent on the Advisory Council, meeting in plenary, to deliver opinions on:
 - a) ERSE's annual activity plan and budget;
 - b) ERSE's reports and accounts;
 - c) Tariff regulations, the drafts of which are submitted to it for the purpose by the Board of Directors;
 - d) Other common issues, in particular of a regulatory nature, that are submitted to it by the Board of Directors.
- 2 - It shall also be incumbent on the plenary of the Advisory Council to make recommendations and to foster work of interest for regulated sectors.
- 3 - It shall be incumbent on the Advisory Council, at joint meetings of the electric sector and natural gas sector, to deliver opinions on:
 - a) Tariff regulations, the drafts of which are submitted to it for the purpose by the Board of Directors;
 - b) Other issues that are common to the electric sector and natural gas sector, in particular of a regulatory nature, that are submitted to it by the Board of Directors.
- 4 - It shall be incumbent on the Advisory Council, at meetings of the electric sector and natural gas sector sections, to deliver opinions on the following issues:
 - a) Proposed approval or amendment of regulations the issue of which is incumbent on ERSE, in the scope of the electric sector and natural gas sector, except for tariff regulations;
 - b) Proposed opinions for which ERSE is responsible, which the Board of Directors decides to submit to it;
 - c) Other issues related to the electric sector and natural gas sector that are submitted to it by the Board of Directors, except for those for which the Tariff Council is responsible.
- 5 - The opinions of the Advisory Council shall not be binding.



6 - The opinions of the Advisory Council shall be disseminated by ERSE at its website as well as by any other means deemed to be appropriate.

Article 44^{[2][3]}

Operation

- 1 - The Advisory Council shall hold ordinary meetings at least twice a year.
- 2 - Extraordinary meetings of the Advisory Council shall be held where convened by its Chair, on his or her initiative, or at the request of the Chair of the Board of Directors or of at least one third of its members.
- 3 - Members of the Board of Directors shall be allowed to participate, without having the right to vote, in meetings of the Advisory Council.
- 4 - The Advisory Council shall approve its rules of procedure.
- 5 - There shall be no remuneration for the work performed by members of the Advisory Council, without prejudice to the payment of subsistence allowances and attendance fees.
- 6 - Without prejudice to the following paragraph, the amount of attendance fees provided for in the preceding paragraph shall be determined by ERSE's rules of procedure, and shall not exceed the limit of twice the allowance paid by the regulatory authority for travel expenses within the national territory.
- 7 - Subsistence allowances and attendance fees of representatives of commercial companies represented in the Advisory Council shall be paid by the respective companies, in the amount and under the conditions to be defined by the latter.
- 8 - The payment of subsistence allowances to members of the Advisory Council provided for in points a) to d) of paragraph 2 of article 41 shall be allowed, provided they concern travel arrangements to the mainland, from the Autonomous Regions of Azores and Madeira, for the purpose of attending meetings of the referred Advisory Council.

SECTION V^{[2][4]}

Fuels Council

Article 44-A^[4]

Role

The Fuels Council shall provide a specific forum for consultation on the performance of duties assigned to ERSE in the scope of the sectors of LPG in all its categories, namely bottled, piped or bulk LPG, as well as of petroleum-derived fuels and biofuels.

Article 44-B^[4]

Composition and appointment

- 1 - The composition of the Fuels Council shall be as follows:
 - a) A person of recognized standing and independence to be appointed by the member of the Government in charge of the energy area, who shall chair the meetings;
 - b) A representative of Associação Portuguesa de Empresas Petrolíferas (APETRO - the Portuguese Association of Oil Companies), for the petroleum-derived fuel and biofuel sectors;



- c) A representative of Associação Portuguesa de Produtores de Biocombustíveis (APPB - the Portuguese Association of Biofuel Producers);
- d) A representative of Associação Nacional dos Revendedores de Combustíveis (ANAREC - the Portuguese Association of Fuel Retailers), for the petroleum-derived fuel and biofuel sectors;
- e) A representative of Associação de Empresas Distribuidoras de Produtos Petrolíferos (EDIP - the Portuguese Association of Petroleum Product Distributors), for the petroleum-derived fuel and biofuel sectors;
- f) A representative of Associação Portuguesa das Empresas de Distribuição (APED - the Portuguese Association of Distribution Companies), for the petroleum-derived fuel and biofuel sectors;
- g) A representative of general interest consumer associations, under [Law No. 24/96](#), of 31 July, as it stands, for the petroleum-derived fuel and biofuel sectors;
- h) A representative of Automóvel Clube de Portugal (ACP - the Portuguese Automobile Club), for the petroleum-derived fuel and biofuel sectors;
- i) A representative of national associations of the sector of road transport powered by petroleum products;
- j) A representative of Confederação da Indústria Portuguesa (CIP - the Portuguese Industry Confederation), for the petroleum-derived fuel and biofuel sectors;
- k) A representative of Confederação dos Agricultores Portugueses (CAP - the Portuguese Farmers Confederation);
- l) A representative of Associação Portuguesa de Empresas Petrolíferas (APETRO), for the liquefied petroleum gas sector;
- m) A representative of Associação Nacional dos Revendedores de Combustíveis (ANAREC), for the liquefied petroleum gas sector;
- n) A representative of Associação de Empresas Distribuidoras de Produtos Petrolíferos (EDIP), for the liquefied petroleum gas sector;
- o) A representative of Associação Portuguesa das Empresas de Distribuição (APED) for the liquefied petroleum gas sector;
- p) A representative of piped propane gas distribution operators;
- q) A representative of general interest consumer associations, under [Law No. 24/96](#), of 31 July, as it stands, for the liquefied petroleum gas sector;
- r) Two representatives of associations representing LPG-consuming economic activities;
- s) A representative of Automóvel Clube de Portugal (ACP), for the liquefied petroleum gas sector;
- t) A representative of Confederação da Indústria Portuguesa (CIP), for the liquefied petroleum gas sector.

2 - Where a control or group relationship is found to exist between any of the represented bodies referred to in the preceding paragraph, according to article 21 of Código dos Valores Mobiliários, approved by [Decree-Law No. 486/99](#), of 13 November, as it stands, or, even where no such relationship exists, there are common shareholders with whom such bodies establish the referred relationships, the referred bodies shall not, taken together, appoint more than one representative per section of the Fuels Council.



3 - ERSE shall be entitled to lay down regulations for the appointment, by bodies referred to in paragraph 1, of the respective representatives, as well as their characteristics, and in any event, such representatives shall be natural persons and represent bodies provided for in paragraph 1 directly.

4 - Where the number of representatives of stakeholders of the petroleum-derived fuel and biofuel sectors and of the LPG sector, except for consumers, is found to exceed the number of consumer representatives, bodies referred to in points g) to k) and q) to t) of paragraph 1 shall be entitled to jointly indicate as many representatives as are necessary to ensure that the number of consumer representatives matches, in the respective section, the number of the referred representatives of stakeholders of the petroleum-derived fuel and biofuel sectors and of the LPG sector.

5 - The appointment of members of the Fuels Council shall be incumbent on represented bodies, without prejudice to the following paragraph, and shall be made between the 30 days that precede and the 30 days that follow the end of the term of office of retiring members.

6 - In the cases provided for in points g), i), p), q) and r) of paragraph 1, the appointment of representatives shall take place in a meeting of interested parties convened by the Chair of the ERSE's Board of Directors by means of a notice published at ERSE's website and in a nationwide newspaper, at least 15 days ahead of the date of the meeting.

7 - The term of office of the members of the Fuels Council shall be three years, which shall be renewable, without prejudice to their being replaced at any time by appointing bodies.

Article 44-C^[4]

Organization

1 - The Fuels Council comprises two sections:

- a) The section of the petroleum-derived fuel and biofuel sectors, which shall include representatives mentioned in points a) to k) of paragraph 1 of article 44-B; and
- b) The section of the liquefied petroleum gas sector, which shall include representatives mentioned in points a) and l) to t) of paragraph 1 of article 44-B.

2 - Plenary meetings as well as meetings of sections of the Fuels Council shall be chaired by the person appointed by the member of the Government in charge of the energy area.

Article 44-D^[4]

Competence

1 - It shall be incumbent on the Fuels Council, meeting in plenary, to deliver opinions on issues that are common to the LPG, petroleum-derived fuel and biofuel sectors, in particular of a regulatory nature, that are submitted to it by the Board of Directors.

2 - It shall be incumbent on the Fuels Council, at meetings of the petroleum-derived fuel and biofuel sector section, to deliver opinions on the following issues:

- a) Proposed approval or amendment of regulations the issue of which is incumbent on ERSE, in the scope of the petroleum-derived fuel and biofuel sectors;
- b) Proposed opinions for which ERSE is responsible, which the Board of Directors decides to submit to it;



c) Other issues related to the petroleum-derived fuel and biofuel sectors that are submitted to it by the Board of Directors.

3 - It shall be incumbent on the Fuels Council, at meetings of the liquefied petroleum gas sector, to deliver opinions on the following issues:

a) Proposed approval or amendment of regulations the issue of which is incumbent on ERSE, in the scope of the LPG sector;

b) Proposed opinions for which ERSE is responsible, which the Board of Directors decides to submit to it;

c) Other issues related to the LPG sector that are submitted to it by the Board of Directors.

4 - Opinions referred to in this article shall be approved by a majority of members and shall not be binding.

5 - The opinions of the Fuels Council shall be disseminated by ERSE at its website as well as by any other means deemed to be appropriate.

Article 44-E^[4]

Operation

1 - The Fuels Council shall hold ordinary meetings at least once a year, at the invitation of the Chair.

2 - Extraordinary meetings of the Fuels Council shall be held where convened by its Chair, on his or her initiative, at the request of at least one third of its members or at the request of the Chair of the Board of Directors.

3 - Members of the Board of Directors shall be allowed to participate, without having the right to vote, in meetings of the Fuels Council.

4 - The Fuels Council shall approve its rules of procedure.

5 - There shall be no remuneration for the work performed by members of the Fuels Council, without prejudice to the payment of subsistence allowances and attendance fees.

6 - Without prejudice to the following paragraph, the amount of attendance fees provided for in the preceding paragraph shall be determined by ERSE's rules of procedure, and shall not exceed the limit of twice the allowance paid by the regulatory authority for travel expenses within the national territory.

7 - Subsistence allowances and attendance fees of representatives of commercial companies represented in the Fuels Council shall be paid by the respective companies, in the amount and under the conditions to be defined by the latter.

SECTION VI^[4]

Tariff Council

Article 45

Role

The Tariff Council shall provide a specific forum for consultation on tasks assigned to ERSE in the scope of tariffs and prices.

Article 46^{[1][2][3][4][5]}**Composition and appointment**

- 1 - The composition of the Tariff Council shall be as follows:
- a) A person of recognized standing and independence to be appointed by the member of the Government in charge of the energy area, who shall chair the meetings;
 - b) A person of recognized standing and independence to be appointed by the member of the Government in charge of the environment area;
 - c) A representative of Associação Nacional de Municípios Portugueses;
 - d) Three representatives of general interest consumer associations, under [Law No. 24/96](#), of 31 July, as amended by [Law No. 85/98](#), of 16 December, and by [Decree-Law No. 67/2003](#), of 8 April;
 - e) A representative of Direção-Geral do Consumidor;
 - f) A representative of the concessionary of Rede Nacional de Transporte de Eletricidade (RNT);
 - g) A representative of the concessionary of Rede Nacional de Distribuição de Eletricidade (RND);
 - h) A representative of companies holding concession contracts for the distribution of low-voltage (LV) electricity;
 - i) A representative of the electricity last resort supplier who operates in that capacity throughout the mainland;
 - j) A representative of electricity suppliers subject to free trade;
 - k) A representative of associations whose members are consumers of medium-voltage (MV), high-voltage (HV) and extra high voltage (EHV) electricity;
 - l) A representative of the concessionary of Rede Nacional de Transporte de Gás Natural (RNTGN);
 - m) A representative of companies holding concession contracts for the reception, storage and regasification of LNG;
 - n) A representative of companies holding concession contracts for the storage of natural gas;
 - o) A representative of companies holding concession contracts for the distribution of natural gas at regional level;
 - p) A representative of bodies licensed for the distribution of natural gas as a public service;
 - q) A representative of wholesale natural gas last resort suppliers;
 - r) A representative of retail natural gas last resort suppliers;
 - s) A representative of natural gas suppliers subject to free trade;
 - t) A representative of associations whose members are natural gas consumers consuming more than 10 000 m³ per year;
 - u) A representative of small energy suppliers.
- 2 - The Tariff Council shall also include:
- a) A representative of electricity sector companies of the Autonomous Region of Azores;
 - b) A representative of electricity sector companies of the Autonomous Region of Madeira;



- c) A representative of consumers of the Autonomous Region of Azores;
 - d) A representative of consumers of the Autonomous Region of Madeira.
- 3 - Where a control or group relationship is found to exist between any of the represented bodies referred to in paragraphs 1 and 2, according to article 21 of Código dos Valores Mobiliários, or, even where no such relationship exists, there are common shareholders with whom such bodies establish the referred relationships, the referred bodies shall not, taken together, appoint more than two representatives per section of the Tariff Council.
- 4 - ERSE shall be entitled to lay down regulations for the appointment, by bodies referred to in paragraphs 1 and 2, of the respective representatives, as well as their characteristics, and in any event, the following rules shall be observed:
- a) Representatives of bodies who operate subject to a public service concession must be indicated in the order set out in paragraphs 1 and 2, until the upper limit provided for in the preceding paragraph is reached;
 - b) Members of the Tariff Council shall be natural persons and represent bodies provided for in paragraphs 1 and 2 directly.
- 5 - Where the number of representatives of SEN and SNGN stakeholders, except for consumers, is found to exceed the number of consumer representatives, bodies referred to in points d), k) and t) of paragraph 1 and in points c) and d) of paragraph 2 shall be entitled to jointly indicate as many representatives as are necessary to ensure that the number of consumer representatives matches, in the respective section, the number of representatives of remaining SEN and SNGN stakeholders.
- 6 - The appointment of members of the Tariff Council shall be incumbent on represented bodies, without prejudice to the following paragraph, and shall be made between the 30 days that precede and the 30 days that follow the end of the term of office of retiring members.
- 7 - In the cases provided for in points d), h), j), k), m), n), q), p), r), s), t) and u) of paragraph 1 and in paragraph 2, the appointment of representatives shall take place in a meeting of interested parties convened by the Chair of the ERSE's Board of Directors by means of a notice published at ERSE's website and in a nationwide newspaper, at least 15 days ahead of the date of the meeting.
- 8 - In case of a match, members of the Tariff Council and of the Advisory Council may be the same.
- 9 - The term of office of the members of the Tariff Council shall be three years, which shall be renewable, without prejudice to their being replaced at any time by appointing bodies.

Article 47^{[2][4][5]}

Organization

- 1 - The Tariff Council comprises two sections:
- a) The section of the electric sector, which shall include representatives mentioned in points a) to k) and u) of paragraph 1 and in paragraph 2 of the preceding article;
 - b) The section of the natural gas sector, which shall include representatives mentioned in points a) to e) and l) to t) and u) of paragraph 1 of the preceding article.
- 2 - The Tariff Council may hold plenary meetings to discuss issues that are common to the two sections that comprise it.

Article 48^[2]**Competence**

- 1 - It shall be incumbent on the Tariff Council to deliver opinions, through its sections, on the approval and review of tariff regulations, as well as on the establishment of tariffs and prices.
- 2 - Proposals for the establishment of tariffs and prices shall be submitted by the Board of Directors to the relevant section of the Tariff Council by the period of time set out in the tariff regulation in advance of the date scheduled for the entry into force of new tariffs and prices.
- 3 - The relevant section of the Tariff Council shall deliver its opinion by the deadline provided for in the corresponding tariff regulation.
- 4 - Opinions referred to in this article shall be approved by a majority of members and shall not be binding.
- 5 - The opinions of the Tariff Council shall be disseminated by ERSE at its website as well as by any other means deemed to be appropriate.

Article 49^{[2][3]}**Operation**

- 1 - Each section of the Tariff Council shall hold ordinary meetings at least once a year, at the invitation of the Chair.
- 2 - Extraordinary meetings of the Tariff Council shall be held where convened by its Chair, on his or her initiative, at the request of at least one third of its members or at the request of the Chair of the Board of Directors.
- 3 - Members of the Board of Directors shall be allowed to participate, without having the right to vote, in meetings of the Tariff Council.
- 4 - There shall be no remuneration for the work performed by members of the Tariff Council, without prejudice to the payment of subsistence allowances and attendance fees.
- 5 - Without prejudice to the following paragraph, the amount of attendance fees provided for in the preceding paragraph shall be determined by ERSE's rules of procedure, and shall not exceed the limit of twice the allowance paid by the regulatory authority for travel expenses within the national territory.
- 6 - Subsistence allowances and attendance fees of representatives of commercial companies represented in the Tariff Council shall be paid by the respective companies, in the amount and under the conditions to be defined by the latter.
- 7 - The payment of subsistence allowances to members of the Tariff Council provided for in points c) and d) of paragraph 2 of article 46 shall be allowed, provided they concern travel arrangements to the mainland, from the Autonomous Regions of Azores and Madeira, for the purpose of attending meetings of the referred Tariff Council.
- 8 - The Tariff Council shall approve its rules of procedure.

CHAPTER IV^[3]

Economic, financial and asset management

Article 49-A^[3]

Budget and financial system

- 1 - ERSE shall have budgetary autonomy, in accordance with these Statutes.
- 2 - Public accounting rules and the system of autonomous funds and services, namely provisions on the commitment of expenditure, the carryover and use of net results and fund blocking that does not depend on allocations from the State budget, shall not apply to ERSE.

Article 49-B^[3]

Assets

- 1 - ERSE shall have its own assets, which shall include property, rights and obligations of an economic content.
- 2 - State property that is assigned for the performance of tasks incumbent on ERSE, in particular premises for the operation of ERSE's services, may be placed under this Authority's administration.

Article 50^{[2][3][4]}

Revenues

- 1 - ERSE shall have its own revenues, in accordance with the principle of self-sufficiency.
- 2 - ERSE's revenues shall consist of:
 - a) Contributions charged on the access tariff to electricity and natural gas customers, that are required to finance ERSE's budget, in the proportion that its established therein on an annual basis, having regard to the relevance and impact of each of the regulated sectors on ERSE's operation;
 - b) Regulatory tariffs, contributions and fees charged to SPN stakeholders and agents, under the law, save for revenues that concern Fundo Azul (the Blue Fund), established by [Decree-Law No. 16/2016](#), of 9 March;
 - c) 40% of proceeds from fines which fall on ERSE to apply, under the law, whereby the remaining 60% shall accrue to the State;
 - d) Amounts charged for work carried out or services provided by ERSE, as well as for the sale of studies or other publications;
 - e) Proceeds resulting from the sale, encumbrance or financial investment of ERSE's own property;
 - f) Other revenues to which ERSE is entitled under the law.
- 3 - [Repealed].
- 4 - RNT and RNTGN concessionaries shall be required to transfer to ERSE a quarter of the respective amount provided for in point a) of paragraph 2 by the beginning of each quarter.
- 5 - In the event of non-compliance with the preceding paragraph, the collection of amounts due may be enforced by means of an execution procedure.



6 - Where management balances exist, they shall accrue to electricity and natural gas customers, through the deduction of balances from the access tariff, in the proportion of contributions charged under point a) of article 2.

Article 51^[3]

Activity plan, budget and respective multiannual plan

1 - The Board of Directors shall prepare every year the annual activity plan and the budget for the following year, as well as the respective multiannual plan.

2 - The annual activity plan referred to in the preceding paragraph, and, where appropriate, the multiannual activity plan, as well as ERSE's annual budget and respective multiannual plan, shall be submitted to the opinions of the Advisory Council and of the Statutory Auditor.

3 - The annual budget, the respective multiannual plan and the opinions of the Advisory Council and of the Statutory Auditor shall be forwarded for approval to the members of the Government in charge of the finance and energy areas, which shall be granted within 60 days, pursuant to paragraphs 3 and 4 of article 58.

4 - Annual and multiannual activity plans, as well as budgets and respective multiannual plans, shall be disseminated by ERSE at its website.

Article 52^[3]

Report and accounts

1 - The Board of Directors shall prepare its report and accounts at the end of each year, which shall be submitted to the opinions of the Statutory Auditor and of the Advisory Council.

2 - ERSE's accounting shall be kept according to the Sistema de Normalização Contabilística (the national accounting system), and the development of analytical accounting procedures shall be required, in order to allow the breakdown of results according to activities.

3 - Where expenditure exceeds the amount provided for in the budget, the Board of Directors shall be required to explain deviations occurred.

4 - The report and accounts, as well as opinions referred to in paragraph 1, shall be forwarded to the members of the Government in charge of the finance and energy areas, by the end of March of the year following the report period, and approval shall be granted within 60 days, pursuant to paragraphs 3 and 4 of article 58.

5 - On the date referred to in the preceding paragraph, the report and accounts shall also be submitted to Assembleia da República, for its information.

6 - Activity reports and accounts, including the respective balance sheets, shall be disseminated by ERSE at its website.

CHAPTER V **Services and staff**

Article 53^[3]

Services

1 - ERSE shall be provided with technical and administrative services as required to perform its tasks.



2 - Services and respective structures, organization and operation shall be set out in the rules of procedure approved by the Board of Directors.

Article 54^{[2][3]}

Status of employees

1 - ERSE's employees shall be subject to the legal scheme governing individual employment, in accordance with Código de Trabalho (the Employment Code) and implementing regulations thereof, as well as to rules of procedures provided for in these Statutes, and shall be covered by the general social security scheme.

2 - Conditions governing recruitment and work performance and discipline shall be set out in a separate ERSE regulation, to be approved by the Board of Directors, in compliance with mandatory provisions of the legal scheme governing individual employment and with collective bargaining standards.

3 - The recruitment of ERSE's employees shall follow a tender-like procedure in accordance with the following principles:

- a) Advertisement of the job offer at ERSE's website and at Bolsa de Emprego Público (the public employment pool);
- b) Equal conditions and chance for all candidates;
- c) Objective and detailed methods and criteria for assessment and selection;
- d) Reasoned decision.

4 - ERSE shall be entitled to be a party to collective labour bargaining agreements.

5 - ERSE staff shall be covered by the incompatibilities scheme that applies to civil servants, and shall not, in any case:

- a) Perform tasks in stakeholders of sectors regulated by ERSE, as well as in bodies with whom the latter have a control or group relationship, according to article 21 of Código dos Valores Mobiliários, or in bodies with whom the latter also have a control or group relationship;
- b) Maintain with bodies referred in the preceding point any employment relationship, service agreement or any contractual relationship, either direct or indirect, for the provision of an activity for the benefit of such bodies, even where the respective effects are suspended;
- c) Hold any economic or financial interest in stakeholders of regulated sectors.

6 - The preceding paragraph shall apply to all service providers with whom a conflict of interests may exist, namely where the provision of legal, economic or financial services is concerned, being incumbent on the Board of Directors to assess and safeguard against this kind of conflict.

7 - Without prejudice to paragraph 5, ERSE's employees shall be entitled, under the law, by way of exception and where special authority is given by the Board of Directors, to perform tasks in stakeholders of sectors regulated by ERSE, for a fixed period of time, in the scope of the development of special projects or of training in areas that are relevant to ERSE's activities.

8 - ERSE's workers shall be entitled, under the law, to be requested by or to perform tasks in bodies of the public administration or EU institutions, where special authority is given by the Board of Directors.

Article 55^{[2][3]}**Other staff**

- 1 - ERSE shall be entitled to request, under the law, the secondment of staff of the direct or indirect administration of the State, Autonomous Regions, local authorities, other legal persons of the autonomous administration, independent administrative bodies and other public legal persons.
- 2 - Seconded staff shall retain the status held in the respective services or companies, shall be entitled to choose between their original salary arrangements or the salary that corresponds to the tasks performed at ERSE, and shall enjoy benefits involved, including periods of service for all purposes provided for in the law, as if such staff maintained their original service or employment.
- 3 - The option for the salary corresponding to tasks performed at ERSE, under the preceding paragraph, shall be without prejudice to retirement-related calculations taking into account the remuneration of the post of origin.
- 4 - [Repealed].
- 5 - [Repealed].
- 6 - [Repealed].

Article 55-A^[3]**Professional secrecy and diligence**

- 1 - Members of ERSE's bodies and their employees, service providers and collaborators shall be subject to the duties of diligence and professional secrecy with regard to facts which come to their knowledge exclusively in the performance of their tasks and which they cannot or should not disclose.
- 2 - For the purpose of the preceding paragraph, the Board of Directors shall approve an Ethical Code of Conduct, which shall be published at ERSE's website, and which shall apply to persons referred to in the preceding paragraph.

Article 56^[3]

[Repealed]

Article 57^[3]**Procurement of external services and cooperation protocols**

- 1 - ERSE shall be entitled to contract, by way of provision of services, the cooperation of companies or experts for the purpose of preparing studies, opinions, audits or other tasks required for the performance of its tasks.
- 2 - ERSE shall be entitled to establish cooperation protocols with other regulatory bodies, universities, public or private research centres in the regulation or regulated sectors area, as well as with institutions or general interest associations, such as municipalities or consumer associations.
- 3 - [Repealed].

CHAPTER VI^[3]**Independence, liability and judicial control**Article 58^[3]**Independence**

- 1 - ERSE shall be independent in the performance of its duties and shall not be subject to Government oversight or authority, and the Government shall not be entitled to address any recommendations or directives to ERSE's Board of Directors as regards the Authority's regulatory action, or priorities adopted in the respective pursuit, without prejudice to the following paragraphs.
- 2 - The following items shall be subject to the approval of the members of the Government in charge of the finance and energy areas:
 - a) Annual budget and respective multiannual plan;
 - b) Balance sheet;
 - c) Report and accounts.
- 3 - In the event that no explicit decision is issued on the matter, approvals provided for in the preceding paragraph shall be deemed to have been tacitly granted after 60 days following the reception of the corresponding requests.
- 4 - Approvals provided for in paragraph 2 shall only be refused by means of a decision based on illegality or detriment to ERSE's objectives or to the public interest, or even on an unfavourable opinion delivered by the Advisory Council.
- 5 - The following acts shall be subject to the approval of the members of the Government in charge of the finance and energy areas, otherwise they shall be ineffective:
 - a) Purchase or sale of immovable property, under the law;
 - b) Acceptance of donations, inheritances or legacies;
 - c) Establishment of territorially deconcentrated delegations.

Article 59^[3]**Cooperation with the Government and Assembleia da República**

- 1 - Without prejudice to its operational and decision-making independence, ERSE shall keep the Government properly informed about its regulatory activity, through the member of the Government in charge of the energy area, reporting in particular on recommendations, legislative proposals and draft external regulations which ERSE intends to adopt, as well as on instruments in the framework of the Government's general policy for regulated sectors.
- 2 - ERSE shall also be required to provide in a timely manner all information requested by the member of the Government in charge of the energy area that is related to the implementation of annual and multiannual activity plans, the budget and respective multiannual plan, as well as information required by the Government to prepare energy policy measures.
- 3 - In the scope of paragraph 1, ERSE shall submit to the Government the reports provided for in these Statutes and in legislation that applies to regulated sectors, by the deadlines referred to therein.



4 - The Chair and other members of ERSE's Board of Directors shall appear before the relevant parliamentary commission, when so requested, to provide clarifications on ERSE's regulatory activity.

Article 60^[3]

Civil, criminal, disciplinary and financial liability

1 - ERSE, members of its bodies and its employees shall be held liable at civil, criminal, disciplinary and financial levels for acts and omissions committed in the performance of their duties, under applicable legislation.

2 - Where, under the preceding paragraph, legal action is taken by third parties against members of ERSE's bodies and ERSE's employees, the latter shall be entitled to legal aid provided by ERSE, without prejudice to this Authority's general right of recourse.

Article 61^[3]

Judicial control

1 - ERSE's activity shall be subject to administrative jurisdiction, under applicable legislation.

2 - Decisions taken in breach proceedings may be contested, under the general terms of the law, before Tribunal de Concorrência, Regulação e Supervisão (the Competition, Regulation and Supervision Court).

Article 62

Scrutiny of Tribunal de Contas

ERSE shall be subject to the jurisdiction of Tribunal de Contas (the Court of Auditors), under applicable legislation.

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