

Law 37/2003, of 22 August

Establishes the foundations for the financing of higher education

The Assembly of the Republic hereby decrees, pursuant to Article 161(c) of the Constitution, to be valid as general law of the Republic, the following:

CHAPTER I General provisions

Article 1 Scope

- 1 - This law defines the foundations for the financing of higher education.
- 2 - Higher education is financed in accordance with objective criteria, performance indicators and standard values concerning the quality and excellence of the education provided.
- 3 - Public higher education is also financed in the framework of a tripartite relationship between:
 - a) The State and higher education institutions;
 - b) Students and higher education institutions;
 - c) The State and students.

Article 2 Objectives

The objectives of the financing of higher education are:

- a) To ensure that national priorities in matters of education policy are fulfilled;
- b) To stimulate plans to support higher education institutions in fulfilling its responsibilities to provide quality education;
- c) To bring the type of support granted in line with institutions' development plans;
- d) To stimulate the search for competitive financing sources based on criteria of quality and excellence;
- e) To promote the right of equal opportunities for all with regard to access to and attendance of education and academic success, by overcoming financial, social and cultural inequalities;
- f) To value the merit, dedication and academic success of students, regardless of their financial capacity.

Article 3 General principles

- 1 - The following principles are applied to the financing of higher education:
 - a) Principle of accountability, rationality and efficiency of institutions, to be construed as meaning that institutions should ensure high quality service, subject to regular evaluation, and should also ensure the efficient and transparent use of resources, in particular through the certification and disclosure of their accounts, activity plans and annual reports;
 - b) Principle of democracy, construed as the right granted to citizens to, according to their abilities, gain access to the highest levels of education, of scientific research and of artistic creation, without restrictions of a financial or other nature;
 - c) Principle of universality, construed as the right to access for all institutions and all students to the financing mechanisms provided for in the law, depending on their sector - public or non-public;
 - d) Principle of non-exclusion, construed as the right of every student to not be excluded, due to lack of financial resources, from access to and of attendance of higher education, for which purpose the State should ensure an adequate and fair system of student services in the higher education system;
 - e) Principle of subsidiarity, construed as the responsibility of public or private entities that benefit from the services provided by higher education institutions to finance the production of knowledge and the training of professionals;
 - f) Principle of recognition of merit, on personal and institutional levels.

2 - The following principles are applied to the financing of public higher education:

- a) Principle of financial accountability of the State, construed to mean meeting the public costs required to guarantee the operation of a public network of quality education establishments;
- b) Principle of accountability of students, to be construed as meaning that they should show appropriate academic success, justifying, on their own merit, their access to the social good they are benefiting from, measured through a system of compulsory course-completion requirements defined for all institutions;
- c) Principle of the financial autonomy of public higher education establishments and accountability of the members of the administrative and financial boards;
- d) Principle of fairness, construed as the right recognised for each institution and each student to benefit from financial support necessary for their specific situation;
- e) Principle of social balance, for which the parties are the State and civil society, with a view to joint and fair financial responsibility, in order to attenuate current deficits in higher education, providing higher education institutions with conditions for appropriate qualification;
- f) Principle of commitment of the State, based on clear and objective criteria, to finance operation expenses, indexed to a reference budget through the definition of performance indicators and standard values, on the basis of suitable references;
- g) Principle of contractual relationship between higher education institutions and the State, to ensure institutional autonomy, increasing mutual responsibility in the forms of public funding;
- h) Principle of justice, to be construed as meaning that the State and students have the obligation of sharing the costs of financing public higher education, as consideration for the benefits of a social nature as well as the benefits of an individual nature that they will receive in the future;
- i) Principle of complementarity, to be construed as meaning that institutions should find, in connection with their financial autonomy, additional forms of funding, resulting in revenue that will be considered by the State to be revenue belonging to the institutions, and as such not affecting public funding.

CHAPTER II

The financing of public higher education

SECTION I

The relationship between the State and higher education institutions

Article 4

Basic operating budget

1 - Each fiscal year, the State, to the amounts established in the State Budget Law, finances the basic operating budget of the education and training activities of institutions, including their organisational units or specific structures.

2 - The financing referred to in the preceding paragraph is indexed to a reference budget, with appropriations calculated according to a formula based on objective criteria of quality and excellence, standard values and performance indicators fairly defined for all institutions and taking into account the evaluation reports disclosed for each course and institution.

3 - The formula referred to in Paragraph 2 should contain the following criteria, standard values and performance indicators:

- a) The standard ratio of teaching staff to students;
- b) The standard ratio of teaching staff to non-teaching staff;
- c) Incentives for the qualification of teaching and non-teaching staff;
- d) The quality indicators of teaching staff at each institution;
- e) The indicators of pedagogical efficiency of the courses;
- f) The indicators of academic efficiency of master's and doctoral courses;
- g) The indicators of management efficiency of the institutions;
- h) The merit classification resulting from the evaluation of the course/institution;
- i) Budget structure, reflected in the ratio of staff expenses to other operating expenses;
- j) The merit classification of research units.

4 - The formula referred to above is laid down in the joint ministerial order of the Ministers of Finance and of Science and Higher Education, as well as the rules necessary for its calculation and application.

Article 5

System of compulsory course-completion requirements

1 - The financing of public higher education establishments takes into account the academic success of their students.

2 - For the purpose set out in the preceding paragraph, the competent bodies of each institution or organisational unit should define a system of compulsory course-completion requirements suited to the promotion of student merit.

3 - If no system of compulsory course-completion requirements is established by institutions or organisational units or if they have established a system that is less restrictive than that which is provided for in this law, for the purposes of public funding, the following system shall apply:

a) The right to enrolment in each academic year or semester of bacharelato and licenciatura courses in public higher education establishments shall comply with criteria set down in the table annexed to this law, of which it is an integral part;

b) The table provided for in the preceding subparagraph establishes, in accordance with the form of organisation of the course, the maximum number of enrolments by one student on the course attended at a public higher education establishment, the right to further registration and enrolment on that course to be barred in the event of failure to comply with the applicable criteria and the student prevented from applying again to attend that or another course within the next two semesters.

4 - If the student has Working Student Status, or if the student is studying part time, or is in any other situation to be regulated by the administration of the higher education institutions, for the purposes of the application of the attached table only 0.5 counts for each enrolment carried out in these conditions.

5 - Failure to comply with the system of compulsory course-completion requirements applicable affects the public funding of higher education institutions.

6 - If no system of compulsory course-completion requirements is established by non-public higher education institutions, or if they have established a system that is less restrictive than that which is provided for in this law, the awarding of support by the State to students depends on their compliance with the requirements provided for in the preceding paragraphs.

7 - The same financing conditions provided for in the preceding paragraphs apply to situations of transfer between higher education institutions.

Article 6

Multi-annual budget programmes

1 - The State finances the budget programmes of higher education institutions through the signing of programme contracts and institutional development agreements.

2 - The budget programmes referred to in the preceding paragraph concern the following measures:

a) Quality improvement;

b) Curriculum development;

c) Rationalisation of the system;

d) Strengthening and maintenance of infrastructures and equipment;

e) Additional financing of establishments and organisations with recognised historical, social or cultural impact;

f) Modernisation of the administration and management of institutions;

g) Partnerships between higher education institutions, and between these institutions and secondary education institutions or other public or private entities.

Article 7

Programme contracts

1 - To implement actions concerning the pursuit of specific objectives, within a time frame of less than five years, programme contracts are signed with higher education institutions, entered in the corresponding heading of the State Budget.

2 - The actions referred to in the preceding paragraph are, namely, of the following type:

a) Support for programmes for the promotion of academic success;

b) Support for training programmes for teaching and non-teaching staff;

c) Support for programmes of development and use of electronic learning and other actions within the scope of information society;

d) Support for the running of interinstitutional courses;

- e) Support for the launching of new courses and for courses in areas that are priorities for the development of the Country;
 - f) Support for non-degree courses, post-secondary or postgraduate specialisation courses, rehabilitation courses, life-long education courses and vocational reorientation courses;
 - g) Support for the closure of courses;
 - h) Elimination of disparities between organisational units in the same institution in the hiring and qualification of the teaching staff;
 - i) Support for the provision of specialist services to the community;
 - j) Support for research projects of excellence with structuring effects for the institutions involved and for their local region;
 - l) Support for the creation of new schools.
- 3 - Priority is given to the signing of the contracts referred to in the preceding paragraph that liable to contribute to the following objectives:
- a) The development of strategic areas of excellence;
 - b) The education/training of specialists in priority areas for the development of the Country;
 - c) The correction of regional disparities;
 - d) The qualification of the working population;
 - e) Continuing training for high level vocational retraining;
 - f) The running of research units within the institutional framework of quality of public administration and business modernisation;
 - g) The development of cooperation with Portuguese-speaking countries;
 - h) The mobility of teaching staff and students.
- 4 - The signing of programme contracts may be on a competitive base, and the following factors should be considered:
- a) The qualification of the teaching staff;
 - b) The academic success of students;
 - c) The presentation of innovative teaching projects;
 - d) The capacity of institutions to obtain additional sources of financing;
 - e) The integration of graduates into the labour force, on a comparative basis of their areas of training;
 - f) Scientific and artistic production.
- 5 - To pursue the objectives of the programme contracts to be signed by the State and public higher education institutions, the institutions should contribute with a minimum amount of 20% of the total expenses eligible.
- 6 - The signing of contracts that envisage alternative sources of financing depends on the provision of instruments that guarantee the institutional mission, functions and values, as well as the public interest of higher education, independent thought and freedom to publish results.

Article 8

Institutional development contracts

- 1 - The programmes concerning areas of intervention or strategic objectives will be contained in the development plans of the institutions and will be formalised by means of the signing of institutional development contracts, with a medium-term time frame and a minimum duration of five years, entered in the corresponding heading of the State Budget.
- 2 - The institutional development contracts must contain:
- a) Quantified annual targets of a pedagogical-academic and administrative-financial nature for the contractually specified institutional development;
 - b) Investments in infrastructures, facilities and equipment, whether new investments, or the restoration of installed capacities, for the period of the contract;
 - c) Plans of premises, buildings and attached land, their specifications, updated lists of equipment and its use;
 - d) Reference to the institution's annual running expenses, namely those due to added costs with the investments carried out and conservation and maintenance of properties and other infrastructures;
 - e) The special expenses due to permanent or occasional characteristics of the institution;
 - f) Use of educational patronage under the terms provided by law;
 - g) The mechanisms of monitoring, adjustment and revision of the contract.

Article 9

Complementarity of the contractual arrangements

- 1 - The institutional development contracts and the programme contracts exclude, in their fields of application, the financing of institutions calculated by the formula referred to in Article 4(2).

2 - The extraordinary need for financing to permit the running of the institutions is subject to evaluation and, in exceptional cases, a contract can be signed between the State and the institution, with mandatory goals and time-limits for compliance with the programme of financial recovery.

Article 10

Evaluation of the financing system

The monitoring and systematic and ongoing evaluation by the State of the application of the financing awarded to institutions, with a view to greater rationalisation of the allocation of financial resources as well as to achieving institutional accountability, is conducted through inspections, budget control and periodical specialised external audits.

Article 11

Supervisory body

Institutions of higher education shall have their own supervisory body, as specified by the law, which shall be an individual auditor.

Article 12

Statement of accounts

1 - The statement of accounts includes the following documents:

- a) Balance Sheet;
- b) Profit and Loss Account;
- c) Budget execution reports;
- d) Cash flow reports;
- e) Financial situation report;
- f) Notes to the financial statements;
- g) Management report;
- h) Opinion of the supervisory body (individual auditor), as well as the corresponding legal certification of the accounts.

2 - The documents referred to in the preceding paragraph are signed by the body legally or statutorily competent to present them.

3 - The documents should be submitted:

- a) To the body legally or statutorily competent to approve them;
- b) To the principals or central services of the higher education institutions, in the case of organisational units, establishments, social support services, foundations, associations and other entities in which the control conditions occur;
- c) To the entities to which they should be legally submitted or have the powers to demand them.

Article 13

Statement of consolidated accounts

1 - Without prejudice to the preceding article, higher education institutions should consolidate their financial statements, including organisational units, principals' offices, when applicable, establishments, social support services, foundations and other entities in which the control conditions occur.

2 - Consolidated accounting documents include:

- a) Consolidated management report;
- b) Consolidated balance sheet;
- c) Consolidated profit and loss account by nature;
- d) Notes to the consolidated financial statements.

3 - Consolidated accounts should be subject to legal certification of accounts.

Article 14

Publication of the accounts

The annual documents referred to in the preceding article must be published in the *Diário da República* (Official Gazette) within 60 days after their approval.

SECTION II
The relationship between the student and higher education institutions

Article 15
Content of the relationship

1 - Higher education institutions provide an education service that should be qualitatively demanding and adapted to the objectives that determined its demand from students, who should demonstrate merit in their attendance and contribute to its costs.

2 - Without prejudice to the responsibility of the State, the amounts resulting from the contribution to costs made by students should revert to increasing the quality of the system, measured through the performance indicators and standard values referred to in Article 4(3).

Article 16
Tuition fees

1 - The contribution referred to in the preceding article consists of the payment by students to institutions where they are registered of an attendance charge, known as a "*propina*" (tuition fees).

2 - The value of the tuition fees is established annually depending on the nature of the courses and on their quality, with a minimum value corresponding to 1.3 of the national minimum wage, in force at the start of the academic year, and a maximum value that may not be greater than the value established in Article 1(2) of the table attached to Decree-Law No. 31 658, of 21 November 1941, updated, for the preceding calendar year, through the application of the consumer price index of the Instituto Nacional de Estatística.

3 - The value of tuition fees for post-graduate courses is set by the institutions or their organisational units.

4 - Without prejudice to the provisions of Article 35, students to whom the status of international student applies, approved by decree-law, not covered by the general access system, by international agreement or by support schemes for students of Portuguese descent, pay tuition fees corresponding to the average actual cost of the training to be acquired.

Article 17
Setting of the tuition fees

The powers to set tuition fees belong:

- a) At universities, to senates, upon proposal of the principal, except for organisational units with administrative and financial autonomy;
- b) At polytechnic institutes, to the general councils, upon proposal from the president, except for organisational units with administrative and financial autonomy;
- c) At non-integrated higher education establishments and at organisational units with administrative and financial autonomy, to their management board.

SECTION III
The relationship between the State and the student

SUBSECTION I
General provisions

Article 18
Commitment of the State

1 - The State, in its relationship with students, undertakes to guarantee the existence of a social support system that permits access to higher education and attendance of its institutions to all students.

2 - Social support guarantees that no student will be excluded from the subsystem of higher education due to financial incapacity.

Article 19

Objectives and means

1 - The State guarantees the right to education and to education in the best possible conditions, subject to budgetary availability, thus contributing to the training of qualified professionals and to the promotion of the development of the Country.

2 - To achieve these purposes, the State will invest in student services and in educational support, consolidating and expanding physical infrastructures, in particular according priority to the construction of halls of residence and refectories.

3 - The financing of social support at higher education institutions is established by decree-law, through a formula calculated on the basis of criteria of fairness, efficiency and good performance.

Article 20

Student support services

1 - Within the framework of the system of student support services, the State grants direct and indirect support managed on a flexible, decentralized basis.

2 - Direct social support is provided through study grants.

3 - Indirect social support can be provided for:

a) Access to food and to accommodation;

b) Access to health services;

c) Support for cultural and sports activities;

d) Access to other forms of student support.

4 - Specific support to be granted to students with disabilities should be considered.

5 - Specific support to be granted to students travelling to and from the Autonomous Regions can be considered.

Article 21

Control

1 - The system of control of the funds attributed or to be attributed through social support is laid down in the decree-law referred to in Article 19(3), and may include documentary or inspection methods, in particular to detect external signs of wealth, in order for it to be possible to obtain the means of evidence necessary to guarantee that the funds attributed or to be attributed will effectively benefit those most in need.

2 - The system of control referred to in the preceding paragraph is inspected jointly by the services of the Ministries of Finance, of Social Security and Labour and of Science and Higher Education, under the terms of an agreement to be signed by the competent members of Government.

SUBSECTION II

Direct social support

Article 22

Study grants

1 - Students economically in need who demonstrate merit, dedication and academic success benefit from the award of study grants, intended to contribute to the costs of, *inter alia*, expenses with accommodation, food, transport, study material and tuition fees.

2 - Merit grants are awarded to students with exceptional academic records.

3 - The grants referred to in the preceding paragraphs are provided annually and paid in full and outright by the State.

4 - The criteria and systems to determine the amounts and forms of social and student support are established by the decree-law referred to in Article 19(3).

Article 23

Sworn statement

In the application for a study grant referred to in Paragraph 1 of the preceding article, the student shall sign a sworn statement, using a model to be approved by the Government, in which, in addition to data concerning his or her personal identification, residence, academic situation and composition of household, he or she shall declare, among

other elements, the activity or activities that gave rise to the receipt of earnings by the member of the household, as well as the amount of these earnings, and shall undertake to provide the corresponding proof whenever requested.

SUBSECTION III

Indirect social support

Article 24

Access to food and to accommodation

- 1 - Students have access to a meal service to be provided by various types of catering units.
- 2 - Students who do not live locally, with priority for those economically in need, also have access to accommodation in halls of residence or specific support to this end.
- 3 - The services referred to in the preceding paragraphs are subsidised according to the formula to be defined by joint ministerial order of the Ministers of Finance and of Science and Higher Education.

Article 25

Access to health services

Students have access to health services, with support being provided in specific areas such as diagnosis and prevention and psycho-pedagogical supervision, in the framework of agreements signed by higher education institutions and health structures, under terms to be regulated.

Article 26

Support for cultural and sports activities

Support for cultural and sports activities should cover the creation of infrastructures, the acquisition of sports and cultural facilities and support for the running of these facilities, in accordance with the institutions' development plans.

Article 27

Access to other forms of student support

Students shall be guaranteed access to information services, copying, bibliographic support and study material, at favourable prices.

SUBSECTION IV

Loans

Article 28

Student loans

- 1 - To offer students the possibility of financial independence, the State shall support loan systems that take into consideration parameters and regulations, on terms to be regulated.
- 2 - The system referred to in the preceding paragraph shall accord priority to students who do not live locally considered to have more financial difficulties and with satisfactory academic success, regardless of the institution or course attended.
- 3 - The value of the loan shall depend on an assessment of the specific situation of the student, given, in particular, their financial situation, the value of the tuition fees for the course attended, the expenses necessary for compliance with curriculum programmes and the distance between their place of habitual residence and the place of the education establishment attended.
- 4 - The loans referred to in this article will also be awarded to post-graduate students, on terms to be regulated.

SUBSECTION V

Default

Article 29

Consequence of non-payment of tuition fees

The non-payment of tuition fees due under the terms of Article 16 implies:

- a) The nullity of all curriculum acts practiced in the academic year of the default on the obligation;
- b) Suspension of registration and annual enrolment, with withdrawal of the right to access to student support until payment of the debt, to which will be added interest, in the same academic year of the default on obligations occurred.

Article 30

Administrative penalties

Without prejudice to any form of criminal punishment, any student who fraudulently completes the sworn statement provided for in Article 23 or acts fraudulently to obtain any type of social or student support shall be liable for the following administrative penalties:

- a) Nullity of all curriculum acts practiced during the academic year of the conduct;
- b) Annulment of registration and annual enrolment and withdrawal of the right to carry out a new registration at the same or at another higher education institution for a period of one to two years;
- c) Withdrawal of the right to access to the student support services and loan provided for in this law for a period of one to two years.

Article 31

Recovery

Offenders are required to repay unwarranted funds, with interest added calculated at the prevailing rate.

CHAPTER III

The financing of non-public higher education

Article 32

Financing

1 - In connection with its duties with respect to non-public higher education establishments, the State may grant, by contract:

- a) Support for social services for students;
- b) Support for the high quality projects that offer courses considered to be of social relevance in priority fields;
- c) Support for the training of teachers;
- d) Investment incentives;
- e) Support for research;
- f) Merit grants for students with exceptional academic success;
- g) Other support under contracts.

2 - The Government shall regulate the terms and conditions for granting support and signing the contracts referred to in the preceding paragraph.

3 - Contracts cannot be signed the non-public higher education establishments that do not comply with the objective criteria of quality and excellence, standard values and performance indicators fairly defined for all higher education institutions.

Article 33

Social support

1 - The State, through a system of higher education social support, ensures the right to equal opportunities ensuring equal access, attendance and school success, by overcoming economic, social and cultural inequalities.

2 - The social support system includes the following measures:

- a) Study grants;
- b) Access to food and accommodation;
- c) Access to health services;
- d) Support for cultural and sports activities;

e) Access to other educational supports.

3 - The extension to students at private and cooperative higher education and at institutions under concordat law of the provisions of this law in matters of student support services and loans shall be implemented by decree-law.

CHAPTER IV

Final and transitory provisions

Article 34

Exclusion

The provisions of this law do not apply to higher education institutions subordinate to two ministries:

- a) To the Ministries of National Defence and of Science and Higher Education;
- b) To the Ministries of the Interior and of Science and Higher Education;
- c) To the Ministries of the Economy and of Science and Higher Education.

Article 35

Situations special

1 - The provisions of this law are applied without prejudice to compliance with the international obligations of the Portuguese State, or to the granting, for the purposes of payment of tuition fees, of specific support to students who are targets of the regulations set down in:

- a) Decree-Law No. 358/70, of 29 July, and complementary legislation;
- b) Article 2 of Decree-Law No. 524/73, of 13 October;
- c) Article 14(6) of Decree-Law No. 43/76, of 20 January;
- d) Article 9 of Law No. 21/87, of 20 June, and Articles 17 and 19 of Decree-Law No. 241/89, of 3 August;
- e) Article 4 of Decree-Law No. 216/92, of 13 October.

2 - The support referred to in the preceding paragraph consists of:

- a) In the cases of subparagraphs a), c) and d), the award of a subsidy of an amount equal to that of the tuition fees due, the costs of which to be paid from funds entered in the budget of the corresponding government departments;
- b) In the cases of subparagraphs b) and e), the award to higher education institutions of the appropriate financial subsidy, the costs of which to be paid from funds entered in the budget of the Ministry of Education.

Article 36

System of limitations

The regime provided for in Article 5 shall begin to be applied in the academic year following the entry into force of this law and does not cover enrolments in respect of preceding academic years.

Article 37

Universidade Aberta (Open University)

A specific financing regime shall be defined to cover the operating costs of the Universidade Aberta (Open University), to which this law is inapplicable, with the exception of the provisions of Articles 6 to 14.

Article 38

Tuition fees

Until they are set by the competent entities, the value of the tuition fees to be charged in the next academic year corresponds to the minimum limit established in Article 16(2), being subsequently altered to the value that is later set.

Article 39

Repealing clause

Law No. 113/97, of 16 September, and its complementary legislation, and Article 1(1)b of Decree-Law No. 170/96, of 19 September are hereby repealed.

Approved on 15 July 2003.

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

Enacted on 31 July 2003.

To be published.

The President of the Republic, Jorge Sampaio.

Countersigned on 8 August 2003.

The Prime Minister, José Manuel Durão Barroso.

ATTACHED TABLE

Maximum number of enrolments	Courses organised through ECTS credit units - ECTS Credits obtained	Courses organised by credit units - Credits obtained ⁽¹⁾	Courses organised by school year - Complete curriculum years
3	0 to 59	$0aN-1$	0
4	60 to 119	$Na2 \times N-1$	1
5	120 to 179	$2 \times Na3 \times N-1$	2
6	180 to 239	$3 \times Na4 \times N-1$	3
8	240 to 359	$4 \times Na6 \times N-1$	4e5
9	360	$6 \times N$	6

⁽¹⁾ N = highest integer less than or the same as the ratio of the number of total course credits and the number of years of the course.