

This section of the file corresponds to book 2, title 5 (crimes against the state) of the Portuguese penal code.

## Chapter I - Crimes Against State Security

### Section I - Crimes Against National Sovereignty

#### Subsection I - Crimes Against National Independence and Integrity

##### Article 308 - Treason to the Country

Whoever, through violence, threat of violence, usurpation or abuse of sovereign functions:

a) attempt to separate from the mother country, or hand over to a foreign country or submit to foreign sovereignty, all or part of Portuguese territory; or

b) offend or endanger the independence of the country;

is punished with a prison sentence of 10 to 20 years.

##### Article 309 - Military Service in Enemy Armed Forces

Repealed

##### Article 310 - Intelligence with Foreigners to Provoke War

Repealed

##### Article 311 - Practicing Acts Suitable for Provoking War

Repealed

##### Article 312 - Intelligence with Foreigners to Embarrass the Portuguese State

Repealed

##### Article 313.<sup>o</sup> - Aid to Enemy Armed Forces

Repealed

##### Article 314 - Campaign Against the War Effort

Repealed

##### Article 315 - Sabotage Against National Defense

Repealed

##### Article 316 - Violation of State Secrets

1 - Whoever, endangering fundamental interests of the Portuguese state, transmits, makes accessible to an unauthorized person or makes public, in whole or in part, and regardless of the form of access, information, fact or document, plan or object classified as secret of state that must, in the name of those interests, remain secret is punished with a prison sentence of 2 to 8 years.

2 - Whoever destroys, subtracts or falsifies information, fact or document, plan or object referred to in the previous number, endangering interests in the same number indicated, is punished with a prison sentence of 2 to 8 years.

3 - If the agent commits the act described in the previous paragraphs in violation of the duty specifically imposed by the statute of his function or service, or the mission conferred on him by the competent authority, he will be punished with a prison sentence of 3 to 10 years.

4 - If the agent commits the act described in paragraph 1 through means or in circumstances that facilitate its dissemination using social media or digital platforms or of any other nature, he or she will be punished with a prison sentence 3 to 10 years.

5 - If the agent negligently commits the acts referred to in paragraphs 1 and 2, having access to objects or state secrets due to his function or service, or the mission conferred on him by a competent authority, he will be punished with a penalty imprisonment for up to 3 years.

6 - Fundamental interests of the state are considered to be those relating to national independence, the unity and integrity of the state or its internal or external security, the preservation of constitutional institutions, as well as resources allocated to defense and diplomacy, the safeguarding of population in national territory, the preservation and security of strategic economic and energy resources and the preservation of national scientific potential.

##### Article 317 - Espionage

###### 1 - Who:

a) collaborate with a foreign government, association, organization or intelligence service, or with its agent, with the intention of carrying out the act referred to in the previous article; or

b) recruit, welcome or receive agents who commit the act referred to in the previous article or the previous paragraph, or, in any way, encourage the commission of such an act;

is punished with a prison sentence of 3 to 10 years.

2 - If the agent commits the act described in the previous paragraph in violation of the duty specifically imposed by the statute of his function or service, or the mission conferred on him by the competent authority, he will be punished with a prison sentence of 5 to 15 years.

##### Article 318 - Means of Proof of National Interest

1 - Whoever falsifies, subtracts, destroying, rendering useless, causing to disappear or dissimulating evidence about a fact relating to relations between Portugal and a foreign state or international organization, suitable for endangering national rights or interests, is punishable by a prison sentence of 1 to 8 years.

2 - If the action involves removing, moving, falsely placing, rendering unrecognizable or, in any way, removing landmarks, beacons or other signs indicating the limits of Portuguese territory, the offender is punished with a prison sentence of up to 3 years.

#### Article 319 - Diplomatic Infidelity

1 - Whoever, officially representing the Portuguese state, with the intention of causing harm to national rights or interests:

- a) conduct state business with a foreign government or international organization; or
- b) make commitments to them without being duly authorized to do so on behalf of Portugal;

is punished with a prison sentence of 1 to 8 years.

2 - The criminal procedure depends on the participation of the Portuguese government.

#### Article 320 - Usurpation of Portuguese Public Authority

Whoever, in Portuguese territory, with usurpation of functions, carries out, in favor of a foreign state or its agent, an act exclusive to Portuguese authority, is punished with a prison sentence of up to 5 years, if a more serious penalty is not applicable to him due to another legal provision.

#### Subsection II - Crimes Against Foreign States and International Organizations

##### Article 321 - Illegal Delivery of a Person to a Foreign Entity

Whoever, in Portuguese territory, commits acts leading to the illicit delivery of a person, national or foreign, to a foreign state, its agent or to any public or private entity existing in that state, using violence or fraud for this purpose, is punished with prison sentence of up to 5 years, if a more serious penalty is not applicable due to another legal provision.

##### Article 322 - Crimes Against Persons Enjoying International Protection

1 - Anyone who attacks the life, physical integrity or freedom of a person enjoying international protection, while the offended party is in Portugal performing official duties, is punished with a prison sentence of 1 to 8 years, if the penalty is more serious is not applicable to it due to another legal provision.

2 - Whoever offends the honor of a person who enjoys international protection and is in the conditions referred to in the previous paragraph is punished with a prison sentence of up to 2 years or with a fine, if a more serious penalty is not applicable to him by virtue of another legal provision .

3 - They enjoy international protection for the purposes of the provisions of the previous paragraphs:

- a) head of state, including a member of a collegiate body that exercises, under constitutional terms, the functions of head of state, head of government or minister of foreign affairs, as well as family members accompanying them; It is
- b) representative or employee of a foreign state or agent of an international organization who, at the time of the crime, enjoy special protection under international law, as well as family members who live with them.

##### Article 323 - Outrage of Foreign Symbols

Whoever, publicly, through words, gestures, publication of writing or other means of communication with the public, insults the official flag or other symbol of sovereignty of a foreign state or international organization of which Portugal is a member is punished with a prison sentence of up to 1 year or with a fine of up to 120 days.

##### Article 324 - Conditions of Punishment and Proceedability

1 - Criminal proceedings for the crimes provided for in this subsection depend, unless otherwise agreed by an international treaty or convention, on the participation of the Portuguese government. In the case of a crime against honor, it is also necessary for the foreign government or the representative of the international organization to participate.

2 - Relayactively to a foreign state, its representative or employee, it is necessary for the application of the provisions of this subsection that:

- a) Portugal maintains diplomatic relations with the foreign state; It is
- b) there is reciprocity in the criminal treatment of the act, at the time of its commission and judgment.

#### Section II - Crimes Against the Achievement of the Rule of Law

##### Article 325 - Violent Alteration of the Rule of Law

1 - Whoever, through violence or threat of violence, attempts to destroy, alter or subvert the constitutionally established rule of law is punished with a prison sentence of 3 to 12 years.

2 - If the act described in the previous paragraph is committed through armed violence, the agent is punished with a prison sentence of 5 to 15 years.

3 - In the case provided for in the previous paragraph, the penalty is especially mitigated if the agent, having not exercised command functions, surrenders without resisting, or surrenders or abandons his weapons before or immediately after a warning from the authority.

#### Article 326 - Incitement to Civil War or Violent Alteration of the Rule of Law

1 - Whoever publicly incites inhabitants of Portuguese territory or military, militarized or security forces in the service of Portugal to civil war or to practice the conduct referred to in the previous article is punished with a prison sentence of 1 to 8 years.

2 - If the act described in the previous paragraph is accompanied by the distribution of weapons, the agent is punished with a prison sentence of 5 to 15 years.

#### Article 327 - Attack on the President of the Republic

1 - Anyone who attacks the life, physical integrity or freedom of the president of the republic or whoever constitutionally replaces him is punished with a prison sentence of 5 to 15 years, if a more serious penalty is not applicable to him by virtue of another legal provision.

2 - In the event of a crime against life, physical integrity or freedom, the offender is punished with the penalty corresponding to the crime committed, increased by one third in its minimum and maximum limits.

#### Article 328 - Offense to the Honor of the President of the Republic

1 - Whoever insults or defames the president of the republic, or whoever constitutionally replaces him, is punished with a prison sentence of up to 3 years or a fine.

2 - If the insult or defamation is made through words spoken publicly, publication of writing or drawing, or through any technical means of communication with the public, the agent is punished with a prison sentence of 6 months to 3 years or with a fine of not less than 60 days.

3 - Criminal proceedings cease if the president of the republic expressly declares that he desists from it.

#### Article 329 - Sabotage

Whoever destroys, makes it impossible to operate or diverts from its normal purposes, definitively or temporarily, totally or partially, means or routes of communication, public service installations or those intended to supply and satisfy the vital needs of the population, infrastructures of relevant value to economy, security or national defense, with the intention of destroying, altering or subverting the constitutionally established rule of law, is punished with a prison sentence of three to ten years.

#### Article 330 - Incitement to Collective Disobedience

1 - Whoever, with the intention of destroying, altering or subverting by violence the constitutionally established rule of law, incites, in a public meeting or by any means of communication with the public, collective disobedience of public order laws, is punished with a penalty of imprisonment of up to 2 years or a fine of up to 240 days.

2 - The same penalty applies to anyone who, with the intention referred to in the previous paragraph, publicly or through any means of communication with the public:

a) disseminate false or biased news likely to provokerm or restlessness in the population;

b) cause or attempt to cause, by the means referred to in the previous paragraph, divisions within the armed forces, between them and the militarized or security forces, or between any of these and the sovereign bodies; or

c) incite political struggle through violence.

#### Article 331.<sup>9</sup> - Connections with Abroad

Whoever, with the intention of destroying, altering or subverting by violence the constitutionally established rule of law, places himself in connection with the government of a foreign state, with a foreign party, association, institution or group or with any of its agents to:

a) receive instructions, directives, money or valuables; or

b) collaborate in activities consisting of:

i) in the collection, preparation or public dissemination of false or grossly distorted news;

ii) recruiting agents or facilitating those activities, providing a place for meetings, subsidizing them or advertising them;

iii) in promises or gifts; or

iv) threatening another person or using fraud against them;

is punished with a prison sentence of up to 5 years, if a more serious penalty is not applicable to him under another legal provision.

#### Article 332 - Outrage of National and Regional Symbols

1 - Whoever publicly, by words, gestures or publication of writing, or by other means of communication with the public, outrages the republic, the national flag or anthem, the weapons or emblems of Portuguese sovereignty, or lacks the respect due to them due, is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

2 - If the acts described in the previous paragraph are committed against the autonomous regions, the regional flags or anthems, or the emblems of the respective autonomy, the offender is punished with a prison sentence of up to one year or a fine of up to 120 days.

#### Article 333 - Coercion Against Constitutional Bodies

1 - Whoever, through violence or threat of violence, prevents or constrains the free exercise of the functions of a sovereign body or minister of the republic is punished with a prison sentence of 1 to 8 years, if a more serious penalty is not applicable due to

other legal provision.

2 - If the acts described in the previous paragraph are committed against the autonomous regions' own government body, the agent is punished with a prison sentence of 1 to 5 years, if a more serious penalty is not applicable to him by virtue of another legal provision.

3 - If the acts described in paragraph 1 are committed against a local authority body, the agent is punished with a prison sentence of up to 3 years.

4 - If the facts described in paragraph 1 are committed:

- a) against a member of the body referred to in paragraph 1, the agent is punished with a prison sentence of up to 5 years;
- b) against a member of the body referred to in paragraph 2, the agent is punished with a prison sentence of up to 3 years.
- c) against a member of the body referred to in paragraph 3, the agent is punished with a prison sentence of up to 2 years.

#### Article 334 - Disruption of the Functioning of a Constitutional Body

Whoever, with riots, disorder or loud noise, illegitimately disturbs:

a) the operation of a body referred to in paragraph 1 or paragraph 2 of the previous article, without being its member, is punished, respectively, with a prison sentence of up to 3 years, or with a prison sentence of up to 1 year;

b) the exercise of functions by a person referred to in paragraph 4 of the previous article is punished with a prison sentence of up to 2 years in the case of subparagraph a) or with a prison sentence of up to 6 months in the case of subparagraph b).

#### Article 335 - Influence Trafficking

1 - Whoever, by himself or through an intermediary, with his consent or ratification, requests or accepts, for himself or for a third party, a material or non-material advantage, or his promise, to abuse his influence, real or placed, with any public entity, national or foreign, is punished:

a) with a prison sentence of 1 to 5 years, if a more serious penalty is not applicable due to another legal provision, if the purpose is to obtain any favorable illicit decision;

b) with a prison sentence of up to 3 years or with a fine, if a more serious penalty is not applicable due to another legal provision, if the purpose is to obtain any favorable lawful decision.

2 - Whoever, by himself or through an intermediary, with his consent or ratification, gives or promises a material or non-material advantage to the people referred to in the previous paragraph:

a) for the purposes set out in paragraph a), is punished with a prison sentence of up to 3 years or a fine;

b) for the purposes set out in paragraph b), is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

3 - The attempt is punishable.

4 - The provisions of article 374-b are correspondingly applicable.

### Section III - Electoral Crimes

#### Article 336 - Falsification of the Voter Registration

1 - Who:

a) cause their registration in the electoral register by providing false information;

b) register another person on the electoral register knowing that he or she does not have the right to register there;

c) prevent the registration of another person who you know has the right to register; or

d) falsify the voter registration in any other way;

is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

2 - Whoever, as a member of a census commission, with fraudulent intent, fails to draw up or correct the electoral rolls is punished with a prison sentence of up to 3 years or a fine.

3 - The attempt is punishable.

#### Article 337 - Obstruction of Voter Registration

1 - Whoever, through violence, threat of violence or fraudulent artifice, determines a voter not to register in the electoral register or to register outside the geographical unit or location, or beyond the deadline, is punished with a penalty of imprisonment for up to 1 year or with a fine of up to 120 days, if a more serious penalty is not applicable due to another legal provision.

2 - The attempt is punishable.

#### Article 338 - Disruption of Electoral Assembly

1 - Whoever, through violence, threat of violence or participating in turmoil, disorder or chaos, prevents or seriously disrupts the holding, functioning or counting of results of an assembly or electoral college, intended, under the terms of the law, for the election of a governing body sovereignty, as a member of the European parliament, as a body of an autonomous region or as a local authority, or in referenda, is punished with a prison sentence of up to three years or a fine.

2 - Anyone who enters an assembly or electoral college armed, not belonging to a duly authorized public force, is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

3 - The attempt is punishable.

#### Article 339 - Election Fraud

1 - Whoever, in the election referred to in paragraph 1 of the previous article:

a) vote in more than one section or polling station, more than once or with several lists in the same section or polling station, or act in any way that leads to a false count of the ballot; or

b) falsify the counting, publication or official minutes of the voting results;

is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

2 - The attempt is punishable.

#### Article 340 - Voter Coercion

Whoever, in an election referred to in paragraph 1 of article 338, by means of violence, threat of violence or serious harm, compels a voter to vote, prevents him from voting or forces him to vote in a certain way, is punished with prison sentence up to 5 years, if a more serious penalty is not applicable due to another legal provision.

#### Article 341 - Voter Fraud and Corruption

1 - Whoever, in an election referred to in paragraph 1 of article 338:

a) through fraudulent artifice, lead voters to vote, prevent them from voting, or lead them to vote in a certain way; or

b) buy or sell votes;

is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

2 - The attempt is punishable.

#### Article 342.<sup>o</sup> - Violation of the Secret of Scrutiny

Whoever, in an election referred to in paragraph 1 of article 338, carried out by secret ballot, in violation of the legal provision intended to ensure the secrecy of the ballot, becomes aware or gives another person knowledge of a voter's voting intention is punished with prison sentence of up to 1 year or a fine of up to 120 days.

#### Article 343 - Aggravation

The penalties provided for in the articles of this section, with the exception of that provided for in paragraph 2 of article 336, are increased by one third in their minimum and maximum limits if the agent is a member of a census committee, section or polling station, or is a political party delegate to the commission, section or assembly.

#### Section IV - Common Provisions

##### Article 344 - Preparatory Acts

Acts preparatory to the crimes provided for in articles 308 to 317 and articles 325 to 327 are punishable by a prison sentence of up to 3 years.

##### Article 345 - Special Mitigation

When a crime provided for in this chapter involves the production of a danger, the penalty is especially mitigated if the offender voluntarily causes the danger produced by the conduct to be considerably reduced or removed.

##### Article 346 - Additional Penalties

Whoever is convicted of a crime provided for in this chapter may, taking into account the concrete gravity of the fact and its projection on the civic integrity of the agent, be incapacitated from electing president of the republic, member of a legislative assembly or local authority, to be elected as such or to be a juror, for a period of 2 to 10 years.

#### Chapter II - Crimes Against Public Authority

##### Section I - Resistance, Disobedience and False Declarations to Public Authority

##### Article 347 - Resistance and Coercion on Employee

1 - Whoever uses violence, including a serious threat or harm to physical integrity, against an employee or member of the armed, militarized or security forces, to oppose him from carrying out an act relating to the exercise of his functions, or to constrain him from carrying out an act relating to the exercise of their functions, but contrary to their duties, is punished with a prison sentence of one to five years.

2 - The same penalty is applicable to anyone who disobeys the stop sign and drives against an employee or member of the armed, militarized or security forces, a vehicle, with or without an engine, that he drives on a public road or similar, or a vessel that he drives in inland river or sea waters, to oppose him from carrying out an act relating to the exercise of his functions, or to constrain him from carrying out an act relating to the exercise of his functions, but contrary to his duties, if a more serious penalty is not applicable to him for force of another legal provision.

##### Article 348 - Disobedience

1 - Anyone who fails to comply with a legitimate order or warrant, regularly communicated and issued by a competent authority or official, is punished with a prison sentence of up to 1 year or a fine of up to 120 days if:

a) a legal provision imposes, in this case, the punishment for simple disobedience; or

b) in the absence of legal provision, the authority or official makes the corresponding assessment.

2 - The penalty is imprisonment for up to 2 years or a fine for up to 240 days in cases where a legal provision imposes punishment for qualified disobedience.

#### Article 348.<sup>o</sup>-A - False Declarations

1 - Anyone who falsely declares or certifies to a public authority or official the exercise of their functions identity, status or other capacity to which the law attributes legal effects, whether their own or others, is punished with a prison sentence of up to one year or with a fine, if a more serious penalty is not applicable under another provision Cool.

2 - If the declarations are intended to be recorded in an authentic document, the agent is punished with a prison sentence of up to two years or a fine.

### Section II - Taking and Evading Prisoners and Non-Compliance with Obligations Imposed by a Criminal Sentence

#### Article 349 - Taking Prisoners

Who:

a) through violence, threat or artifice, release a person legally deprived of liberty; or

b) instigate, promote or, in any way, assist the escape of a person legally deprived of liberty;

is punished with a prison sentence of up to 5 years.

#### Article 350 - Employee Assistance for Evasion

1 - The official responsible for the custody of a person legally deprived of liberty who releases them, allows them to escape, or facilitates, promotes or, in any way, assists their escape is punished with a prison sentence of 1 to 8 years.

2 - The official who, not being responsible for custody, is obliged, by virtue of the function he performs, to exercise surveillance over a person legally deprived of liberty or to prevent his escape and to practice the conduct referred to in the previous paragraph is punished with a penalty of imprisonment for up to 5 years.

#### Article 351 - Negligence in the Guard

The official responsible for the custody of a person legally deprived of liberty who, through gross negligence, allows the person to escape is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

#### Article 352 - Evasion

1 - Whoever, being legally deprived of liberty, escapes is punished with a prison sentence of up to 2 years.

2 - If the offender voluntarily surrenders to the authorities until the declaration of contumacy, the sentence may be particularly mitigated.

#### Article 353.<sup>o</sup> - Violation of Impositions, Prohibitions or Interdictions

Anyone who violates impositions, prohibitions or interdictions determined by criminal sentence, as a penalty imposed in a summary process, as an additional penalty or as a security measure that does not deprive liberty, is punished with a prison sentence of up to two years or a fine of up to 240 days.

#### Article 354 - Prisoner Riot

Prisoners, detainees or internees who mutiny and, combining their forces:

a) attack an employee legally responsible for their custody, treatment or supervision, or force them, through violence or threat of violence, to carry out an act or to refrain from carrying it out; or

b) promote their evasion or the evasion of third parties;

are punished with a prison sentence of 1 to 8 years.

### Section III - Violation of Public Provisions

#### Article 355 - Misplacement or Destruction of Objects Placed Under Public Power

Anyone who destroys, damages or renders useless, in whole or in part, or, in any way, steals from the public authorities to which they are subject, documents or other movable objects, as well as things or animals that have been arrested, seized or subject to precautionary measures, is punished with a prison sentence of up to 5 years, if a more serious penalty is not applicable under another legal provision.

#### Article 356 - Breaking of Trademarks and Seals

Whoever opens, breaks or renders unusable, totally or partially, marks or seals, legitimately affixed, by a competent official, to identify or keep inviolable any thing or animal, or to certify that arrest, seizure or precautionary measure has been imposed on them, is punished with a penalty imprisonment for up to 2 years or a fine of up to 240 days.

#### Article 357 - Removal, Destruction or Alteration of Notices

Anyone who rips off, destroys, damages, alters or, in any way, prevents the publication of a notice posted by a competent official is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

### Section IV - Usurpation of Functions

#### Article 358 - Usurpation of Functions

Who:

a) without being authorized to do so, perform functions or carry out acts typical of an official, military command or public security force, arrogating, expressly or tacitly, this quality;

b) exercise a profession or perform an act typical of a profession for which the law requires a title or fulfillment of certain conditions, claiming, expressly or tacitly, to possess it or fulfill them, when the person does not have or does not fulfill them; or

c) continue to exercise public functions, after having been officially notified of dismissal or suspension of functions; is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

### Chapter III - Crimes Against the Achievement of Justice

#### Article 359 - False Testimony or Declaration

1 - Whoever gives a separate statement, making false statements regarding facts about which he must give evidence, after having taken an oath and having been warned of the criminal consequences to which he exposes himself by giving a false statement, is punished with a prison sentence up to 3 years or with a fine.

2 - The assistant and the civil parties are subject to the same penalty in relation to statements they make in criminal proceedings, as well as the accused in relation to statements about their identity.

3 - The representative of a legal person or similar entity accused in criminal proceedings who does not respond or responds falsely regarding his or her identity or the identity of the legal person or similar entity shall be subject to a prison sentence of up to three years or a fine.

Article 360

#### - False Testimony, Expertise, Interpretation or Translation

1 - Whoever, as a witness, expert, technician, translator or interpreter, before a court or competent official to receive as evidence, testimony, report, information or translation, give testimony, present a report, give information or make false translations, is punished with a prison sentence of 6 months to 3 years or a fine of not less than 60 days.

2 - Anyone who, without just cause, refuses to testify or present a report, information or translation is subject to the same penalty.

3 - If the act referred to in paragraph 1 is committed after the agent has taken an oath and has been warned of the criminal consequences to which he is exposed, the penalty is imprisonment for up to 5 years or a fine for up to 600 days.

#### Article 361 - Aggravation

1 - The penalties provided for in articles 359 and 360 are increased by one third in their minimum and maximum limits if:

a) the agent acts with profit-making intent;

b) the fact results in dismissal from a position, loss of professional position or destruction of another person's family or social relationships; or

c) the fact results in that, instead of the agent, another person is convicted of the crime that he committed.

2 - If the conduct described in articles 359 or 360 results in the deprivation of a person's liberty, the offender is punished with a prison sentence of 1 to 8 years.

#### Article 362 - Withdrawal

1 - The punishment under articles 359, 360 and 361, paragraph a), does not take place if the agent voluntarily retracts, in time for the retraction to be taken into account in the decision and before the result of the false testimony, report, information or translation, harm to third parties.

2 - The retraction may be made, depending on the case, before the court, the public prosecutor or the criminal police body.

#### Article 363 - Bribery

Whoever convinces or attempts to convince another person, through a gift or promise of a material or non-material advantage, to carry out the acts provided for in articles 359 or 360, without these being committed, is punished with a prison sentence of up to 2 years or with a fine of up to 240 days, if a more serious penalty is not applicable pursuant to another legal provision.

#### Article 364 - Special Mitigation and Dispensation from the Penalty

The penalties provided for in articles 359, 360 and 363 are particularly attenuated, and punishment may be waived when:

a) the falsehood concerns circumstances that do not have essential significance for the evidence to which the statement, report, information or translation is intended; or

b) the act was carried out to prevent the agent, the spouse, an adoptee or adoptee, relatives or relatives up to the 2nd degree, or the person, of the other or the same sex, who lives with that person in similar conditions those of their spouses, if they were exposed to the danger of being subject to a penalty or security measure.

#### Article 365 - Slandorous Complaint

1 - Whoever, by any means, before authority or publicly, with awareness of the falseness of the accusation, denounces or suspects a certain person of committing a crime, with the intention of instituting proceedings against that person, is punished with a prison sentence up to 3 years or with a fine.

2 - If the conduct consists of the false imputation of an administrative offense or disciplinary offense, the agent is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

3 - If the means used by the agent result in presenting, altering or distorting evidence, the agent is punished:

- a) in the case of paragraph 1, with a prison sentence of up to 5 years;
- b) in the case of no. 2, with a prison sentence of up to 3 years or a fine.

4 - If the act results in the deprivation of freedom of the offended party, the offender is punished with a prison sentence of 1 to 8 years.

5 - At the request of the offended party, the court orders public knowledge of the conviction, in accordance with article 189.

#### Article 366 - Crime Simulation

1 - Whoever, without imputing it to a specific person, reports a crime or causes suspicion of its commission to the competent authority, knowing that it has not been verified, is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

2 - If the act concerns an administrative offense or disciplinary offence, the agent is punished with a fine of up to 60 days.

#### Article 367 - Personal Favor

1 - Whoever, totally or partially, prevents, frustrates or deceives the evidentiary or preventive activity of a competent authority, with the intention or with awareness of preventing another person, who committed a crime, from being subjected to a penalty or security measure, is punished with a penalty imprisonment for up to 3 years or a fine.

2 - Anyone who provides assistance to another person with the intention or awareness of, totally or partially, preventing, frustrating or evading the execution of a sentence or security measure that has been applied to them is subject to the same penalty.

3 - The penalty to which the agent may be sentenced, under the terms of the previous paragraphs, cannot be greater than that provided for by law for the act committed by the person for whose benefit the action was taken.

4 - The attempt is punishable.

5 - It is not punishable:

a) the agent who, by doing so, seeks at the same time to prevent the application or execution of a sentence or security measure against him/her;

b) the spouse, adopters or adopted, relatives or similar up to the 2nd degree or the person, of another or the same sex, who lives in a situation similar to that of the spouses with the one for whose benefit the action was taken.

#### Article 368 - Personal Favoring Practiced by an Employee

When the favoritism provided for in the previous article is carried out by an official who intervenes or has the authority to intervene in the process, or by someone who has the authority to order the execution of a sentence or security measure, or is responsible for carrying it out, the agent is punished with prison sentence of up to 5 years.

#### Article 368-A - Money laundering

1 - For the purposes of the provisions of paragraphsAs follows, assets arising from the commission, in any form of participation, of typical illicit acts punishable by a prison sentence of a minimum duration of more than six months or a maximum duration of more than five years or, regardless of the applicable penalties, are considered advantages. of illicit acts typical of:

a) pimping, sexual abuse of children or dependent minors, or pornography of minors;

b) computer and communications fraud, extortion, abuse of a guarantee card or card, device or payment data, counterfeiting of currency or similar securities, depreciation of the value of metallic currency or similar securities, passing of counterfeit concert currency with the forger or similar securities, passing of counterfeit currency or similar securities, or acquisition of counterfeit currency to be put into circulation or similar securities;

c) computer forgery, counterfeit cards or other payment devices, use of counterfeit cards or other payment devices, acquisition of counterfeit cards or other payment devices, acts preparatory to counterfeiting, acquisition of cards or other payment devices obtained through crime computer, damage to programs or other computer data, computer sabotage, illegitimate access, illegitimate interception or illegitimate reproduction of a protected program;

d) criminal association;

e) terrorist offenses, offenses related to a terrorist group, offenses related to terrorist activities and terrorist financing;

f) trafficking in narcotics and psychotropic substances;

g) arms trafficking;

h) human trafficking, aiding illegal immigration or trafficking in human organs or tissues;

i) damage to nature, pollution, activities dangerous to the environment, or danger relating to animals or plants;

j) smuggling, circulation smuggling, smuggling of conditional circulation goods on vessels, tax fraud or social security



fraud;

k) influence peddling, undue receipt of advantage, corruption, embezzlement, economic participation in business, harmful administration in a public sector economic unit, fraud in obtaining or diverting subsidy, subsidy or credit, or corruption with prejudice to international trade or private sector;

l) abuse of privileged information or market manipulation;

m) violation of the exclusive nature of the patent, utility model or topography of semiconductor products, violation of exclusive rights relating to designs or models, counterfeiting, imitation and illegal use of a brand, sale or concealment of products or fraud regarding goods.

2 - Goods obtained through the goods referred to in the previous paragraph are also considered advantages.

3 - Anyone who converts, transfers, assists or facilitates any operation of conversion or transfer of advantages, obtained by themselves or by a third party, directly or indirectly, with the aim of disguising their illicit origin, or of preventing the author or participant of these infractions is criminally persecuted or subjected to a criminal reaction, is punished with a prison sentence of up to 12 years.

4 - Anyone who conceals or dissimulates the true nature, origin, location, disposition, movement or ownership of the benefits, or the rights relating to them, incurs the same penalty.

5 - Anyone who, not being the author of the typical illicit act from which the advantages originate, acquires, holds or uses, with knowledge, at the time of acquisition or at the initial moment of holding or use, of that quality, also incurs the same penalty.

6 - Punishment for the crimes provided for in paragraphs 3 to 5 also takes place if the place where the typical unlawful acts from which the advantages originate were committed or the identity of their perpetrators is unknown, or if such acts were committed outside the national territory, unless they are acts that are lawful under the law of the place where they were committed and to which Portuguese law is not applicable under the terms of article 5.

7 - The act is punishable even if the criminal proceedings relating to the typical unlawful acts from which the advantages originate depend on a complaint and this has not been filed.

8 - The penalty provided for in paragraphs 3 to 5 is increased by one third if the perpetrator habitually carries out the conduct or is one of the entities referred to in article 3 or article 4 of Law no. 83/2017, of August 18, and the offence was committed in the exercise of their professional activities. 9 - When full reparation has been made for the damage caused to the injured party by the typical unlawful act from which the advantages arise, without any unlawful harm to a third party, by the start of the trial hearing in the first instance, the penalty shall be specially mitigated.

10 - If the requirements set out in the previous paragraph are met, the penalty may be specially mitigated if the reparation is partial.

11 - The penalty may be specially mitigated if the offender specifically assists in gathering decisive evidence to identify or capture those responsible for the typical unlawful acts from which the advantages arise.

12 - The penalty applied under the terms of the previous paragraphs may not be higher than the maximum limit of the highest penalty among those provided for the typical unlawful acts from which the advantages arise.

#### Article 369 - Denial of Justice and Prevarication

1 - Any civil servant who, in the context of a procedural inquiry, judicial proceedings, administrative or disciplinary offence, knowingly and against the law, promotes or fails to promote, conducts, decides or fails to decide, or performs an act in the exercise of powers arising from the position he holds, shall be punished with a prison sentence of up to 2 years or a fine of up to 120 days.

2 - If the act is committed with the intention of harming or benefiting someone, the civil servant shall be punished with a prison sentence of up to 5 years.

3 - If, in the case of paragraph 2, it results in the deprivation of a person's liberty, the perpetrator shall be punished with a prison sentence of 1 to 8 years.

4 - The penalty provided for in the previous paragraph shall apply to any civil servant who, being competent to do so, orders or executes a measure to deprive liberty illegally, or fails to order or execute it in accordance with the law.

5 - In the case referred to in the previous paragraph, if the act is committed with gross negligence, the perpetrator shall be punished with a prison sentence of up to 2 years or a fine.

#### Article 370 - Prevarication by a Lawyer or Solicitor

1 - A lawyer or solicitor who intentionally causes harm to a case entrusted to his/her sponsorship shall be punished with a prison sentence of up to 3 years or a fine.

2 - A lawyer or solicitor shall be punished with the same penalty if, in the same case, he/she advocates or practices soliciting for persons whose interests are in conflict, with the intention of acting for the benefit or detriment of one of them.

#### Article 371 - Violation of Judicial Secrecy

1 - Whoever, regardless of having had contact with the proceedings, illegitimately discloses, in whole or in part, the content of a criminal procedural act that is covered by judicial secrecy, or whose course of proceedings is not permitted to the general public, shall be punished with a prison sentence of up to two years or a fine of up to 240 days, unless another penalty is imposed for the case by

procedural law.

2 - If the act described in the previous paragraph concerns:

- a) proceedings for an administrative offence, until the decision of the administrative authority VAT; or
- b) disciplinary proceedings, as long as the secret is legally maintained;

the agent is punished with a prison sentence of up to 6 months or a fine of up to 60 days.

## Chapter IV - Crimes Committed in the Exercise of Public Functions

### Section I - Corruption

#### Article 372 - Undue Receipt or Offer of Advantage

1 - The employee who, in the exercise of his duties or because of them, by himself, or through an intermediary person, with his consent or ratification, requests or accepts, for himself or for a third party, a material or non-material advantage, which does not belong to him. is owed, is punished with a prison sentence of up to five years or a fine of up to 600 days.

2 - Whoever, by himself or through an intermediary, with his consent or ratification, gives or promises to an employee, or to a third party upon his indication or knowledge, a material or non-material advantage, which is not due to him, in the exercise of his functions or because of them, is punished with a prison sentence of up to three years or a fine of up to 360 days.

3 - Socially appropriate conduct in accordance with usage and customs is excluded from the previous numbers.

#### Article 373 - Passive Corruption

1 - The employee who, by himself, or through an intermediary, with his consent or ratification, requests or accepts, for himself or for a third party, a material or non-material advantage, or his promise, for the performance of any act or omission contrary to the duties of the position, even if prior to that request or acceptance, is punished with a prison sentence of one to eight years.

2 - If the act or omission is not contrary to the duties of the position and the advantage is not due to him, the agent is punished with a prison sentence of one to five years.

#### Article 374 - Active Corruption

1 - Whoever, by himself or through an intermediary, with his consent or ratification, gives or promises to an employee, or to a third party by indication or with his knowledge, a material or non-material advantage for the purpose indicated in paragraph 1 of the article 373rd, is punished with a prison sentence of one to five years.

2 - If the purpose is as indicated in paragraph 2 of article 373, the agent is punished with a prison sentence of up to three years or a fine of up to 360 days.

3 - The attempt is punishable.

#### Article 374-A - Aggravation

1 - If the advantage referred to in articles 372 to 374 is of high value, the agent is punished with the penalty applicable to the respective crime increased by a quarter in its minimum and maximum limits.

2 - If the advantage referred to in articles 372 to 374 is of a considerably high value, the agent is punished with the penalty applicable to the respective crime increased by one third in its minimum and maximum limits.

3 - For the purposes of the provisions of the previous paragraphs, the provisions of paragraphs a) and b) of article 202 are correspondingly applicable.

4 - Without prejudice to the provisions of article 11, when the agent acts in accordance with article 12, he is punished with the penalty applicable to the respective crime increased by one third in its minimum and maximum limits.

5 - Without prejudice to the provisions of the previous paragraphs, the official who holds a high public position is punished:

- a) with a prison sentence of 1 to 5 years, when the crime is as provided for in paragraph 1 of article 372;
- b) with a prison sentence of 2 to 8 years, when the crime is as provided for in paragraph 1 of article 373;
- c) with a prison sentence of 2 to 5 years, when the crime is as provided for in paragraph 2 of article 373.

6 - Without prejudice to the provisions of paragraphs 1 to 4, if the official holds a high public position, the agent is punished:

a) with a prison sentence of up to 5 years or a fine of up to 600 days, in the situations provided for in paragraph 2 of article 372;

b) with a prison sentence of 2 to 5 years, in the situations provided for in paragraph 1 of the Article 374; or

c) with a prison sentence of up to 5 years, in the situations provided for in Article 374.2

7 - Any official holding a high public office who, in the exercise of his or her duties or because of them, personally or through an intermediary, with his or her consent or ratification, gives or promises to an official, an official holding a high public office or a political office, or a third party with the knowledge of the latter, a financial or non-financial advantage that is not due to him or her, shall be punished with a sentence of 2 to 8 years if the purpose is that indicated in Article 373.1 and with a sentence of 2 to 5 years if the purpose is that indicated in Article 373.2.

8 - The following are considered to hold high public office:

- a) public managers and members of the management body of a publicly-held company who exercise executive functions; b) members

- of the management body of a state-owned company, when appointed by the state;
- c) members of the management bodies of companies that form part of the regional or local business sectors;
- d) members of the management bodies of public institutes;
- e) members of the board of directors of an independent administrative entity;
- f) holders of senior management positions of the 1st and 2nd degree and equivalent, and top managers of the services of municipal councils and municipalised services, where applicable.

#### Article 374.<sup>o</sup>-B - Exemption or Mitigation of Sentence

1 - The offender is exempt from punishment whenever he has reported the crime before the initiation of criminal proceedings and, in the situations provided for:

- a) in paragraph 1 of article 373, has not committed the act or omission contrary to the duties of the position for which he requested or accepted the advantage and voluntarily returns or repudiates the advantage or, in the case of fungible things or animals, returns its value;
- b) in paragraph 1 of article 372 and paragraph 2 of article 373, voluntarily returns or repudiates the advantage or, in the case of fungible things or animals, returns its value; c) in paragraph 1 of article 374, has withdrawn the promise of an advantage or requested its restitution or repudiation from the official or third party before the practice of the act or omission contrary to the duties of the position;
- d) in paragraph 2 of article 372 and paragraph 2 of article 374, has withdrawn the promise of an advantage or requested its restitution or repudiation from the official or third party.

2 - The agent may be exempted from punishment whenever, during the inquiry or investigation, and if the provisions of paragraphs 1 are met, as applicable, he has contributed decisively to the discovery of the truth.

3 - The exemption from punishment covers crimes that are the effect of the crimes provided for in articles 372 to 374, or that were intended to continue or conceal these crimes or the advantages arising from them, provided that the agent has reported them or contributed decisively to their discovery. 4 - The provisions of the previous paragraph do not apply to crimes committed against eminently personal property.

5 - The penalty shall be particularly mitigated if, until the end of the trial hearing in the first instance, the offender actively collaborates in discovering the truth, contributing in a relevant way to the proof of the facts.

6 - The exemption and mitigation of the penalty shall not be excluded in the situations of aggravation provided for in article 374.<sup>o</sup>-A.

#### Section II - Embezzlement

##### Article 375.<sup>o</sup> - Embezzlement

1 - The civil servant who illegitimately appropriates, for his own benefit or that of another person, money or any movable or immovable property or animal, public or private, which has been delivered to him, is in his possession or is accessible to him by reason of the his duties, he is punished with a prison sentence of 1 to 8 years, if a more serious penalty is not applicable to him due to another legal provision.

2 - If the values

or objects referred to in the previous paragraph are of low value, in accordance with paragraph c) of article 202, the agent is punished with a prison sentence of up to 3 years or a fine.

3 - If the official gives a loan, pledges or, in any way, encumbers values

or objects referred to in paragraph 1, he/she will be punished with a prison sentence of up to 3 years or with a fine, if a more serious penalty is not applicable to him/her. force of another legal provision.

##### Article 376.<sup>o</sup> - Embezzlement of Use

1 - The employee who makes use or allows another person to make use, for purposes other than those for which they were intended, of immovable property, vehicles, other movable things or animals of appreciable value, public or private, that are delivered to him, are in his possession or are accessible to him due to his functions, is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

2 - If the official, without special reasons of public interest justifying it, allocates public money to a public use other than that to which it is legally allocated, he or she will be punished with a prison sentence of up to 1 year or a fine of up to 120 days.

##### Article 377 - Economic Participation in Business

1 - An employee who, with the intention of obtaining, for himself or a third party, illicit economic participation, harms in a legal transaction the property interests that, in whole or in part, are his responsibility, due to his role, to administer, monitor, defend or carry out, is punishable by up to 5 years in prison.

2 - An employee who, in any way, receives, for himself or for a third party, a financial advantage as a result of a civil legal act relating to interests of which he had, by virtue of his duties, at the time of the act, totally or partially, the disposal, administration or supervision, even without harming them, is punished with a prison sentence of up to 6 months or a fine of up to 60 days.

3 - The penalty provided for in the previous paragraph is also applicable to the employee who receives, for himself or for a third party, in any form, a financial advantage as a result of collection, collection, settlement or payment which, by virtue of his duties, in whole or in part, is in charge of ordering or doing, as long as there is no harm to the public treasury or to the interests entrusted to it.

#### Article 377-A - Special Attenuation of the Sentence

In the crimes of embezzlement and economic participation in business, the penalty is especially mitigated if, until the end of the trial hearing in the first instance, the agent actively collaborates in discovering the truth, contributing in a relevant way to the proof of the facts.

### Section III

#### Abuse of Authority

##### Article 378 - Violation of Domicile by Employee

Any employee who, abusing the powers inherent to his duties, commits the crime provided for in paragraph 1 of article 190, or violates the professional home of someone who, due to the nature of his activity, is bound by the duty of secrecy, is punished with a prison sentence of up to 3 years or a fine.

##### Article 379 - Concussion

1 - The official who, in the exercise of his functions or de facto powers arising from them, by himself or through an intermediary with his consent or ratification, receives, for himself, for the state or for a third party, through misleading or taking advantage of error of the victim, financial advantage that is not due to him, or is greater than that due, namely contribution, fee, emolument, fine or fine, is punished with a prison sentence of up to 2 years or a fine of up to 240 days, if punished more serious situation is not applicable to it due to another legal provision.

2 - If the act is carried out through violence or threat of serious harm, the agent is punished with a prison sentence of 1 to 8 years, if the sentence is longer serious is not applicable to it due to another legal provision.

##### Article 380 - Use of Public Force Against the Execution of Law or Legitimate Order

The official who, being competent to request or order the use of public force, requests or orders this employment to prevent the execution of a law, a regular court order or a legitimate order from a public authority, is punished with a prison sentence of up to 2 years or with a fine of up to 240 days.

##### Article 381 - Refusal to Cooperate

Any official who, having received a legal request from a competent authority to provide due cooperation to the administration of justice or any public service, refuses to provide it, or without a legitimate reason not to provide it, is punished with a prison sentence of up to 1 year or with a fine of up to 120 days.

##### Article 382 - Abuse of Power

Any employee who, outside of the cases set out in the previous articles, abuses powers or violates duties inherent to his functions, with the intention of obtaining, for himself or for a third party, an illegitimate benefit or causing harm to another person, is punished with a prison sentence of up to 3 years or with a fine, if a more serious penalty is not applicable due to another legal provision.

##### Article 382.<sup>o</sup>-A - Violation of Urban Planning Rules by Employee

1 - Any official who informs or decides favorably on the licensing or authorization process or provides false information about the applicable laws or regulations, knowing that his conduct does not comply with urban planning standards, is punished with a prison sentence of up to three years or a fine.

2 - If the object of the license or authorization concerns public roads, land belonging to the national ecological reserve, national agricultural reserve, public property or land specially protected by legal provision, the agent is punished with a prison sentence of up to five years or a fine.

### Section IV - Breach of Secret

##### Article 383.<sup>o</sup> - Violation of Secrets by Employee

1 - An employee who, without being duly authorized, reveals a secret of which he has become aware or which has been entrusted to him in the exercise of his duties, or whose knowledge has been facilitated by the position he holds, with the intention of obtaining, for himself or herself or for another person, benefit, or with the knowledge of causing harm to the public interest or third parties, is punished with a prison sentence of up to 3 years or a fine.

2 - If the employee carries out the act provided for in the previous paragraph, creating a danger to the life or physical integrity of others or to other people's property of high value, he or she will be punished with a prison sentence of one to five years.

3 - The criminal procedure depends on the participation of the entity that oversees the respective service or on a complaint from the offended party.

#### Article 384 - Violation of the Secret of Correspondence or Telecommunications

Any postal, telegraph, telephone or telecommunications employee who, without being duly authorized:

- a) suppress or remove letters, orders, telegrams or other communications entrusted to those services and which are accessible to them due to their functions;
- b) open a letter, order or other communication that is accessible to him due to his duties or, without opening it, become aware of its contents;
- c) reveal to third parties communications between certain people, made by post, telegraph, telephone or other means of telecommunications of those services, of which he became aware due to his functions;
- d) record or reveal to a third party the content, in whole or in part, of the aforementioned communications, or make it possible for him or her to hear or become aware of them; or
- e) allow or promote the facts referred to in the previous paragraphs;

is punished with a prison sentence of 6 months to 3 years or a fine of not less than 60 days.

#### Section V - Abandonment of Functions

##### Article 385 - Abandonment of Functions

The employee who, illegitimately, with the intention of preventing or interrupting public service, abandoning their duties or neglecting to carry them out is punished with a prison sentence of up to 1 year or a fine of up to 120 days.

#### Section VI - General Provision

##### Article 386 - Concept of Employee

1 - For the purposes of criminal law, the expression employee covers:

- a) civil and military public employees;
- b) whoever holds a public position due to a special relationship;
- c) whoever, even provisionally or temporarily, for remuneration or free of charge, voluntarily or obligatorily, has been called upon to perform or participate in the performance of an activity included in the public administrative or jurisdictional function;
- d) the judges of the constitutional court, the judges of the court of accounts, the judicial magistrates, the magistrates of the public ministry, the attorney general of the republic, the ombudsman, the members of the superior council of the judiciary, the members of the superior council of the administrative and tax courts and the members of the superior council of the public ministry;
- e) the arbitrator, the jury, the expert, the technician who assists the court in judicial inspection, the translator, the interpreter and the mediator;
- f) the notary;
- g) whoever, even provisionally or temporarily, for remuneration or free of charge, voluntarily or obligatorily, performs or participates in the performance of a public administrative function or exercises authority functions in a collective person of public utility, including private institutions of social solidarity; It is
- h) anyone who performs or participates in the performance of public functions in a public association.

2 - Members of a management or administration body or fiscal body and workers of public, nationalized companies, with public capital or with a majority shareholding of public capital and also in public service concessionary companies are treated as employees, and in the case of companies with equal or minority participation of public capital, holders of management or administration bodies designated by the state or another public entity are treated as employees.

3 - The following are also equated to an employee, for the purposes of the provisions of articles 335 and 372 to 375:

- a) magistrates, employees, agents and equivalents of organizations governed by public international law, regardless of nationality and residence;
- b) national employees of other states;
- c) all those who perform functions identical to those described in paragraph 1 within the scope of any international organization governed by public law of which Portugal is a member;
- d) magistrates and employees of international courts, provided that Portugal has declared its acceptance of the jurisdiction of these courts;
- e) all those who perform functions within the scope of extrajudicial conflict resolution procedures, regardless of nationality and residence;
- f) national jurors and arbitrators from other states.

4 - The treatment of anyone who performs political functions as an official, for the purposes of criminal law, is regulated by special law.

This section of the file corresponds to book 2, title 5 (crimes against pet animals) of the Portuguese penal code.

##### Article 387 - Death and Ill-Treatment of Companion Animals

1 - Whoever, without legitimate reason, kills a companion animal is punished with a prison sentence of 6 months to 2 years

or a fine of 60 to 240 days, if a more serious penalty is not applicable due to another legal provision.

2 - If the death is caused in circumstances that reveal particular reprehensibility or perversity, the maximum limit of the referred penalty in the previous number it is increased by a third.

3 - Anyone who, without legitimate reason, inflicts pain, suffering or any other physical abuse on a companion animal is punished with a prison sentence of 6 months to 1 year or a fine of 60 to 120 days.

4 - If the facts referred to in the previous paragraph result in the death of the animal, the deprivation of an important organ or limb or the serious and permanent impairment of its ability to move, or if the crime is committed in circumstances that reveal particular reprehensibility or perversity, the The agent is punished with a prison sentence of 6 months to 2 years or a fine of 60 to 240 days, if a more serious penalty is not applicable due to another legal provision.

5 - The circumstances of:

- a) the crime is of special cruelty, namely by employing torture or an act of cruelty that increases the suffering of the animal;
- b) use weapons, instruments, objects or any insidious or particularly dangerous means and methods;
- c) be determined by greed, the pleasure of killing or causing suffering, for excitement or for any base or futile reason.