

This file corresponds to Book 2, Title 3 (Crimes Against Cultural Identity and Personal Integrity) of the Penal Code of Portugal.

Article 236 - Incitement to War

Whoever, publicly and repeatedly, incites hatred against a people, intending to trigger a war, is punished with imprisonment from 6 months to 3 years.

Article 237 - Recruitment of Armed Forces

Whoever attempts to recruit members of the Portuguese armed forces for a war against a foreign state or territory, endangering peaceful coexistence among peoples, is punished with imprisonment from 1 to 5 years.

Article 238 - Recruitment of Mercenaries

Whoever recruits or attempts to recruit mercenaries for military service of a foreign state or for any national or foreign armed organization that proposes, by violent means, to overthrow the legitimate government of another state or to attack the independence, territorial integrity, or normal functioning of the institutions of that state, is punished with imprisonment from 1 to 5 years. A mercenary is considered to be someone who is recognized as such by international law.

Article 239 - Genocide

1. Whoever, with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such:

- a) Commits homicide of group members;
 - b) Inflicts serious physical harm to members of the group;
 - c) Subjects the group to conditions of existence or cruel, degrading, or inhumane treatments, likely to cause their total or partial destruction;
 - d) Transfers children of the group by violent means to another group; or
 - e) Prevents procreation or births within the group;
- is punished with imprisonment from 12 to 25 years.

2. Whoever publicly and directly incites genocide is punished with imprisonment from 2 to 8 years.

3. Agreement with the aim of committing genocide is punished with imprisonment from 1 to 5 years.

Article 240 - Discrimination and Incitement to Hatred and Violence

1. Whoever:

- a) Founds or constitutes an organization or develops propaganda activities that incite or encourage discrimination, hatred, or violence against a person or group of people due to their ethnic-racial origin, national or religious origin, color, nationality, ancestry, place of origin, religion, language, sex, sexual orientation, gender identity or expression, sexual characteristics, physical or mental disability; or
- b) Participates in the organizations referred to in the previous paragraph, in the activities they undertake or assists them, including their financing;

2. Whoever, publicly, through any means of dissemination, particularly through the apology, denial, or gross trivialization of genocide, war crimes, or crimes against peace and humanity:

- a) Provokes acts of violence against a person or group of people due to their ethnic-racial origin, national or religious origin, color, nationality, ancestry, place of origin, religion, language, sex, sexual orientation, gender identity or expression, sexual characteristics, physical or mental disability;
- b) Defames or insults a person or group of people due to their ethnic-racial origin, national or religious origin, color, nationality, ancestry, place of origin, religion, language, sex, sexual orientation, gender identity or expression, sexual characteristics, physical or mental disability;

c) Threatens a person or group of people due to their ethnic-racial origin, national or religious origin, color, nationality, ancestry, place of origin, religion, language, sex, sexual orientation, gender identity or expression, sexual characteristics, physical or mental disability; or

d) Incites discrimination, hatred, or violence against a person or group of people due to their ethnic-racial origin, national or religious origin, color, nationality, ancestry, place of origin, religion, language, sex, sexual orientation, gender identity or expression, sexual characteristics, physical or mental disability;

- is punished with imprisonment from 6 months to 5 years.
3. When the crimes mentioned in the previous paragraphs are committed through a computer system, the court may order the deletion of computer data or content.

Article 241 - War Crimes Against Civilians

1. Whoever, in violation of norms or principles of general or common international law, during war, armed conflict, or occupation, commits against the civilian population, the wounded, the sick, or prisoners of war:
- a) Intentional homicide;
 - b) Torture or cruel, degrading, or inhumane treatments;
 - c) Intentional serious physical harm;
 - d) Hostage-taking;
 - e) Coercion to serve in enemy armed forces;
 - f) Deportation;
 - g) Severe, prolonged, and unjustified restrictions on people's freedom; or
 - h) Unjustified destruction or theft of valuable property;
- is punished with imprisonment from 10 to 20 years.
2. The penalty is increased by one-fourth at its minimum and maximum limits when the acts mentioned in the previous paragraph are committed against members of a humanitarian institution.

Article 242 - Destruction of Monuments

Whoever, in violation of norms or principles of general or common international law, during war, armed conflict, or occupation, destroys or damages, without military necessity, cultural or historical monuments or establishments dedicated to science, arts, culture, religion, or humanitarian purposes is punished with imprisonment from 3 to 10 years.

Article 243 - Torture and Other Cruel, Degrading or Inhumane Treatments

1. Whoever, in their role of preventing, prosecuting, investigating, or being aware of criminal, regulatory, or disciplinary offenses, executing sanctions of the same nature, or protecting, guarding, or supervising a detained or imprisoned person, tortures or treats them in a cruel, degrading, or inhumane manner to:
- a) Obtain from them or another person a confession, testimony, declaration, or information;
 - b) Punish them for an act committed or allegedly committed by them or another person; or
 - c) Intimidate them or another person;
- is punished with imprisonment from 1 to 5 years if a more severe penalty is not applicable under another legal provision.
2. The same penalty applies to whoever, on their own initiative or by superior order, usurps the function mentioned in the previous paragraph to commit any of the acts described therein.
3. Torture, cruel, degrading, or inhumane treatment is considered to be acts inflicting acute physical or psychological suffering, severe physical or psychological exhaustion, or the use of chemical products, drugs, or other means, natural or artificial, with the intent to disturb the determination capacity or the free will of the victim.
4. The provisions of the previous paragraph do not cover the suffering inherent to the execution of the sanctions provided in paragraph 1 or caused by them, nor the legal measures depriving or restricting freedom.

Article 244 - Severe Torture and Other Cruel, Degrading, or Inhumane Treatments

1. Whoever, under the terms and conditions referred to in the previous article:
- a) Inflicts serious physical harm;
 - b) Uses particularly severe methods or means of torture, notably beatings, electric shocks, mock executions, or hallucinatory substances; or
 - c) Habitually commits the acts referred to in the previous article;
- is punished with imprisonment from 3 to 12 years.
2. If the acts described in this article or the previous one result in suicide or death of the victim, the agent is punished with imprisonment from 8 to 16 years.

Article 245 - Failure to Report

The superior who, knowing of the practice, by a subordinate, of the acts described in Articles 243 or 244, does not report it within a maximum of 3 days after knowing, is punished with imprisonment from 6 months to 3 years.

Article 246 - Disabilities

Whoever is convicted of a crime under Articles 240 and 243 to 245 may, considering the concrete severity of the act and its impact on the agent's civic integrity, be disqualified from voting for the President of the Republic, Members of Parliament, Members of the European Parliament, Members of the Legislative Assemblies of the Autonomous Regions, and local government bodies, from being elected as such or from serving as a juror, for a period of 2 to 10 years.