

This file corresponds to book 2, title 3 (crimes against cultural identity and personal integrity) of the Portuguese penal code.

Article 236 - incitement to war

Whoever publicly and repeatedly incites hatred against a people, with the intention of starting a war, is punished with a prison sentence of 6 months to 3 years.

Article 237 - recruitment of armed forces

Anyone who attempts to recruit members of the Portuguese armed forces for a war against a foreign state or territory, endangering peaceful coexistence between peoples, is punished with a prison sentence of 1 to 5 years.

Article 238 - recruitment of mercenaries

whoever recruits or intends to recruit mercenaries for the 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 institutions of the same state, is punished with a prison sentence of 1 to 5 years. Anyone who is considered such by international law is a mercenary.

Article 239 - genocide

1 - whoever, with the intention of destroying, in whole or in part, a national, ethnic, racial or religious group, as such, practices:

- a) homicide of group members;
- b) serious harm to the physical integrity of group members;
- c) subjecting the group to conditions of existence or cruel, degrading or inhumane treatment, likely to lead to its total or partial destruction;
- d) transfer by violent means of children from the group to another group; or
- e) impediment of procreation or births in the group;

is punished with a prison sentence of 12 to 25 years.

2 - anyone who publicly and directly incites genocide is punished with a prison sentence of 2 to 8 years.

3 - the agreement with a view to committing genocide is punishable by a prison sentence of 1 to 5 years.

Article 240 - discrimination and incitement to hatred and violence

1 - who:

a) founding or establishing an organization or carrying out 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, territory origin, religion, language, sex, sexual orientation, gender identity or expression or sexual characteristics, physical or mental disability; or

b) participate in the organizations referred to in the previous paragraph, in the activities they undertake or provide assistance to them, including their financing;

2 - whoever, publicly, by any means intended for disclosure, namely through condoning, denying or grossly trivializing crimes of genocide, war or against peace and humanity:

a) provoke acts of violence against a person or group of people because of their ethnic-racial origin, national or religious origin, color, nationality, ancestry, territory of origin, religion, language, sex, sexual orientation, gender identity or expression or sexual characteristics, physical or mental disability;

b) defame or insult a person or group of people because of their ethnic-racial origin, national or religious origin, color, nationality, ancestry, territory of origin, religion, language, sex, sexual orientation, gender identity or expression or characteristics sexual, physical or mental disability;

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

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

is punished with a prison sentence of 6 months to 5 years.

3 - when the crimes set out 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, in time of war, armed conflict or occupation, commits acts on the civilian population, on the wounded, sick or prisoners of war:

- a) intentional homicide;

- b) torture or cruel, degrading or inhuman treatment;
- c) serious intentional offense to physical integrity;
- d) hostage taking;
- e) embarrassment to serve in the enemy armed forces;
- f) deportation;
- g) serious, prolonged and unjustified restrictions on people's freedom; or
- h) unjustified theft or destruction of valuable assets;

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

2 - the penalty is increased by a quarter in its minimum and maximum limits when the acts referred to in the previous paragraph are carried out on members of a humanitarian institution.

Article 242 - destruction of monuments

whoever, in violation of norms or principles of general or common international law, in time of war, armed conflict or occupation, destroys or damages, without military necessity, cultural or historical monuments or establishments related to science, arts, culture, religion or humanitarian purposes is punishable by a prison sentence of 3 to 10 years.

Article 243 - torture and other cruel, degrading or inhuman treatment

1 - whoever, with the function of preventing, persecuting, investigating or knowing criminal, administrative offenses or disciplinary offences, executing sanctions of the same nature or protecting, guarding or monitoring a detained or imprisoned person, torturing or dealing with cruel, degrading or inhumane way to:

- a) obtain from her or another person a confession, statement, statement or information;
- b) to punish for an act committed or allegedly committed by her or another person; or
- c) to intimidate or to intimidate another person;

is punished with a prison sentence of 1 to 5 years, if a more serious penalty is not applicable to him due to another legal provision.

2 - anyone who, on their own initiative or by order of a superior, usurps the function referred to in the previous paragraph to carry out any of the acts described therein, incurs the same penalty.

3 - torture, cruel, degrading or inhuman treatment is considered to be any act consisting of inflicting acute physical or psychological suffering, severe physical or psychological fatigue or the use of chemicals, drugs or other means, natural or artificial, with the intention of disrupt the victim's capacity for determination or free expression of will.

4 - the provisions of the previous paragraph do not cover the suffering inherent to the execution of the sanctions provided for in paragraph 1 or caused by it, nor legal measures depriving or restricting freedom.

Article 244 - torture and other severe cruel, degrading or inhuman treatment

1 - who, under the terms and conditions referred to in the previous article:

- a) cause serious harm to physical integrity;
- b) employ particularly serious means or methods of torture, namely beatings, electroshocks, mock executions or otherhallucinatory substances; or
- c) habitually carry out acts referred to in the previous article;

is punished with a prison sentence of 3 to 12 years.

2 - if the facts described in this article or the previous article result in suicide or death of the victim, the offender is punished with a prison sentence of 8 to 16 years.

Article 245 - failure to report

the hierarchical superior who, having knowledge of the practice, by a subordinate, in fact described in articles 243 or 244, does not report it within a maximum period of 3 days after becoming aware, is punished with a prison sentence of 6 months to 3 years.

Article 246 - disabilities

whoever is convicted of a crime provided for in articles 240 and 243 to 245 may, taking into account the concrete gravity of the fact and its projection on the agent's civic reputation, be incapacitated from electing the president of the republic, deputies to the assembly of the republic, deputies to the European parliament, deputies to the legislative assemblies of the autonomous regions and the heads of local authority bodies, to be elected as such or to be sworn in, for a period of 2 to 10 years.